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AUDITOR-GENERAL'S REPORT ON THE COUNTY GOVERNMENTS - COUNTY ASSEMBLIES 2023-2024 ● VOLUME 2

COUNTY ASSEMBLIES FORUM (CAF)
P.O. Box 73552 - 00200,
NAIROBI, KENYA

OAG
OFFICE OF THE AUDITOR-GENERAL
Enhancing Accountability

COUNTY ASSEMBLIES



AUDITOR-GENERAL'S REPORT ON THE COUNTY GOVERNMENTS
COUNTY ASSEMBLIES 2023-2024

VOLUME 2

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AUDITOR-GENERAL'S REPORT

ON

THE COUNTY GOVERNMENTS

FOR

THE YEAR 2023-2024

VOLUME 2 - COUNTY ASSEMBLIES

COUNTY ASSEMBLIES FORUM (CAF)
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Foreword

This Report commonly known as the Green Book, is a compilation of the audit reports of the County Governments and constitutes the County Executives and the County Assemblies for the year ended 30 June, 2024.

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

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

In addition, as previously reported, an effective mechanism for follow-up on the implementation of audit recommendations is lacking. As such most audit queries recur in subsequent audit reports due to lack of requisite action. Section 204(1)(g) of the Public Finance Management Act, 2012 provides that the Cabinet Secretary for matters relating to finance may apply sanctions to any National Government entity that fails to address issues raised by the Auditor-General, to the satisfaction of the Auditor-General. The above notwithstanding, a number of County Governments have recorded significant progress and registered improved reports from Adverse to qualified opinions. However, none of the County Executives has recorded a clean opinion while the number of County Assemblies with clean opinions has increased from three (3) to eight (8) Counties.

Despite numerous reports indicating a lack of accountability and inadequate documents to support the legality and effectiveness in the use of public resources, failure to apply the requisite sanctions has resulted to some Accounting Officers not adequately accounting for the management and use of public resources with impunity. Lack of action and

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sanctions has also led to fiscal indiscipline including misallocations, wastage of resources, lack of value for money in the implementation of projects and loss of public funds, thereby impacting negatively on development programs. This, in turn, has threatened economic growth and the sustainability of service delivery to citizens. There are also instances where some Accounting Officers are in breach of Section 62 of the Public Audit Act, 2015 by failing to adequately prepare for audit which is exhibited by numerous inaccuracies in the financial statements presented for audit, lack of requisite supporting documents, several revisions of financial statements and, in some cases, reluctance to cooperate with the auditors during the audit process.

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

The Office continues to seek financial independence and support from Parliament and The Executive through The National Treasury for enhancement of resources to enable it build technical capacity, expand its presence in the counties, widen the scope and comprehensiveness of audit as well as motivate its staff. We continue to devolve our services closer to the people through the establishment of regional offices and the construction of office premises to accommodate our staff in order to address the audit needs at the grassroots level. Currently, we have fifteen (15) regional offices and constructed offices in Garissa, Kakamega, Eldoret and Embu. Plans for the construction of our Headquarters in Nairobi, which is currently at the design stage, have been delayed due to lack of funding. However, the Office continues to make appeals to Parliament and The National Treasury to provide adequate funds to enable the Office to perform its functions and achieve its mandate of enhancing accountability across the Government, both at the national and county levels, and in all other entities funded by public funds.

The audit scope has been expanding over the years due to the expansion of Government programs to ensure sustainable development and the delivery of continuous and quality services to the citizens. This has led to the growth in the national budget and the establishment of additional entities that I am required to audit and report on. In addition

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to the Ministries, Departments and Agencies (MDAs), State Owned Enterprises (SOEs), and County Governments, over nine thousand (9,000) Public Secondary Schools were directed by the Principal Secretary of the State Department for Basic Education, to prepare financial statements from 30 June, 2021 and submit to the Auditor-General for audit. Quite a number of schools have complied with this directive. During the year, my Office has conducted audits on a sample of four hundred and eighty-six (486) public secondary schools, for three (3) consecutive years 2020/2021, 2021/2022 and 2022/2023 in arrears, and issued reports to individual schools and the relevant offices as per the Constitution. Additionally, the Office has also undertaken special audits on infrastructure, grants and capitation for several public secondary schools and the report has also been issued.

Further, I am required to separately audit and report on financial statements for all three hundred and seventy-six (376) Level 4 hospitals and eighteen (18) Level 5 hospitals. During the year, the Office has undertaken audits on a sample of two hundred and forty-two (242) hospitals comprising two hundred and twenty-four (224) Level 4 Hospitals, eighteen (18) Level 5 Hospitals and five (5) Level 6 Hospitals; and issued reports as provided by the constitution. We endeavor to audit all the hospitals from Level 4 in all Counties. I am also required to audit thirty-five (35) Teachers Training Colleges, two hundred and thirty (230) Technical and Vocational Education and Training (TVET) Institutions funded through the Exchequer and Community Vocational Training Institutions that are estimated to be over one thousand two hundred (1,200) Institutions. In addition, new projects and funds have been created and all require timely oversight.

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

Specific reports together with my opinion for each entity are contained in the respective County Executive's audited financial statements for the year ended 30 June, 2024, which I have already submitted to the Senate, County Assemblies and respective Accounting Officers.

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

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

FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

29 January, 2025

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VOLUME 2 – COUNTY ASSEMBLIES

1.0 Introduction

1.1 Constitutional Mandate of the Auditor-General

The Office of the Auditor-General (OAG) is an Independent Office established by Article 229 of the Constitution of Kenya. The Office is charged with the primary oversight role of ensuring accountability in the use of public resources within the three arms of government (the Legislature, the Judiciary and the Executive) as well as the Constitutional Commissions and Independent Offices. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

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

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

1.2 Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the International Public Sector Accounting Standards (IPSAS), as prescribed by the Public Sector Accounting Standards Board (PSASB), and for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

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

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

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

1.3 Auditor-General's Responsibility

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

In addition, Article 229(6) of the Constitution requires me to express a conclusion on whether or not, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the law and other authorities that govern them, and that public resources are applied in an effective way. I also consider the entities' control environment in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems, in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015.

Further, I am required to submit the audit report in accordance with Article 229(7) of the Constitution.

A detailed description of my responsibilities for the audit is located at the Office of the Auditor-General's website at: https://www.oagkenya.go.ke/auditor-generals-responsibilities-for-audit/. This description forms part of my auditor's report.

I am independent in accordance with Article 249(2) of the Constitution of Kenya and ISSAI 130 on the Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of public entities in the Republic of Kenya.

1.4 Reporting Structure

The reporting structure of my report addresses the reporting requirements of Article 229(6) of the Constitution of Kenya, which requires that an audit report shall confirm whether or not public resources have been applied lawfully and in an effective way. Section 7(1) (a) of the Public Audit Act, 2015 also requires that I provide assurance on the effectiveness of internal controls, risk management and overall governance.

Further, I am expected to read the other information provided by Management and report whether the other information is materially inconsistent with the financial statements.

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In order to address these requirements, my audit reports contain the following:

i. **Report on Financial Statements**, in which I give an audit opinion on whether the financial statements present fairly, in all material respects the financial position and performance of the entity.

ii. **Report on Lawfulness and Effectiveness in Use of Public Resources**, in which I give a conclusion on whether or not public resources have been applied lawfully and in an effective way.

iii. **Report on Effectiveness of Internal Controls, Risk Management and Governance**, in which I give a conclusion on whether internal controls, risk management and overall governance were effective.

iv. **Report on Other Legal and Regulatory Requirements** is included where applicable, especially for the entities that are registered under the Companies Act, 2015 and any other enabling legislation or authorities that require such disclosure.

1.5 Audit Opinions

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

a) Unmodified Opinion

The books of accounts and underlying records agree with the financial statements and no material misstatements were found. The financial statements present fairly, in all material respects, the operations of the entity.

b) Qualified Opinion

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

c) Adverse Opinion

The financial statements exhibit significant misstatements with the underlying accounting records. There exists significant disagreement(s) between the financial statements and the underlying books of accounts and/or standards. The discrepancies and misstatements are widespread, and persistent which require considerable interventions by Management to rectify.

d) Disclaimer of Opinion

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

1.6 Audit Opinions

The key findings noted during the audit of the financial statements for the year ended 30 June, 2024 are highlighted in the ensuing pages.

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COUNTY ASSEMBLY OF MOMBASA – NO.1

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities and Note 13A to the financial statements reflect cash and cash equivalents balance of Kshs.3,179,071 which includes amounts of Kshs.2,206,749, Kshs.14,131 and Kshs.597,985 in respect of deposits and retentions account, salary account and Imprest Account respectively. The balances were however not supported with the cash book, bank statements and bank reconciliation statements.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.3,179,071 could not be confirmed.

2. Inaccuracies in the Statement of Financial Assets and Liabilities

The statement of financial assets and liabilities reflects net financial assets and net financial position balance of Kshs.3,724,628 as at 30 June, 2024. However, the statement has omitted financial liabilities in respect to third party deposits and retention balance of Kshs.2,206,749 as analysed in Note 15 to the financial statements. Further, the statement reflects fund balance brought forward of Kshs.18,344,989 as disclosed in Note 16 to the financial statements which has not been adjusted for third party deposits and retentions as required by the reporting format.

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

3. Inaccuracies in the Statement of Cash flows

The statement of cash flows reflects cash and cash equivalents balance of Kshs.3,179,071 at end of the year. However, decrease/increase in accounts receivables reported as Kshs.1,845,013 under prior year differs with the audited balance of Kshs.281,927 resulting to an unexplained variance of Kshs.1,563,086.

In the circumstances, the accuracy of the statement of cash flows could not be confirmed.

4. Inaccuracies in the Statement of Comparison of Budget and Actual Amounts

The statements of comparison of budget and actual amounts (Recurrent and Development combined) shows final budgeted payments of Kshs.1,045,944,906 and actual amount of Kshs.965,441,885. The statement shows actual amounts in respect to compensation of employees and use of goods and services of Kshs.388,555,759 and Kshs.528,325,279 while the amounts reported in the statement of receipts and payments is Kshs.437,102,467 and Kshs.473,486,017 resulting to variances of Kshs.48,546,988 and Kshs.54,839,261 respectively. The differences however, have not been reconciled or corrected. Further, the statement reflects compulsory social security benefits actual

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amounts of Kshs.48,560,848 and Kshs.54,839,261 which have no corresponding expenditure in the statement of receipts and payments.

In the circumstances, the accuracy of the statement of comparison of budget and actual amounts could not be confirmed.

Other Matter

5. Unresolved Prior Year Audit Matters

In the audit report for the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management has reported that most of the issues had been resolved, no evidence was provided to show action taken by Management to resolve the prior year's audit matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.

Basis for Conclusion

6. Non-Compliance with Public Service Commission Act, 2017 – Employees Over Sixty (60) Years

Review of human resources records revealed that the County Assembly had three employees who had exceeded the retirement age of sixty (60). The officers were awarded contracts extending their term in office beyond the mandatory retirement age of sixty (60) years contrary to Section 80 (10(a) and (b) of the Public Service Commission Act, 2017 which provides that an officer to retire from the service with effect from the date of attaining the mandatory retirement age. Further, the section stipulates that the Commission or other appointing authority not to extend the service of such retired public officer beyond the mandatory retirement age.

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

7. Non-compliance with the Law on Ethnic Composition

Review of personnel records for the year under review indicated that the County Assembly had a staff establishment of one hundred and thirty-seven (137), out of which sixty-six (66) or 48% were from the dominant community in the County. Further, seventy-six (76) or 62% of the total casual employees at the County Assembly were from the dominant community. This was contrary to the provisions of Section 7(1) and (2) of National Cohesion and Integration Act, 2008 which requires that all establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one-third of its staff from the same ethnic community.

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

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REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

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COUNTY ASSEMBLY OF KWALE – NO.2

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

9. There were no material issues noted during the audit of the financial statements.

Emphasis of the Matter

10. Budgetary Control and Performance

The statement of comparison of budget and actual amounts – recurrent and development reflects final receipts budget and actual amounts of Kshs.1,090,712,566 and Kshs.791,216,911 respectively, resulting to under funding of Kshs.299,495,655 or 27% of the budget. However, the County Assembly expended an amount of Kshs.791,119,186 against actual receipts of Kshs.791,216,911, resulting to an under expenditure of Kshs.97,725 only, of the actual receipts.

The under-funding may have affected implementation of the planned programs thereby negatively impacting on service delivery to the public.

My opinion is not modified in respect to this matter.

Other Matter

11. Unresolved Prior Year's Audit Matters

In the audit report for the previous financial year, several issues were raised in respect of the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management has reported that the issues have not been resolved, no evidence was provided to show action taken by Management to resolve the prior year's audit matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

12. Non-Compliance with the Law on Ethnic Composition

Review of the County Assembly's personnel records revealed that out of the seventy-two (72) employees of the County Assembly, sixty-five (65) or 90.3% were from one dominant ethnic community in the county. Under contractual temporary employees, dominant community constitute 83% of all temporary employees. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishment shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same community.

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

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13. Non-Compliance with the One-Third of Basic Salary Rule

Review of the payroll records revealed that five (5) officers drew salary less than a third of their basic pay in the month of June, 2024 contrary to section 19(3) of the Employment Act 2007 which requires that an employee's salary should not be deducted beyond two thirds of the basic salary.

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

14. Payment of Emoluments Paid Outside IPPD Payroll System

Review of personnel records and the automated Integrated Payroll and Personnel Database (IPPD) system revealed that the County Assembly had an off- shelf payroll system for part of salary payments every month. A total of Kshs.52,931,684 had been paid through the off-shelf system contrary to The National Treasury Circular No.16/2020 which requires that the allocation to personnel emoluments must be supported by Integrated Payroll and Personnel Data (IPPD).

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

15. Irregular Subscription to County Assembly Forum

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services amount of Kshs.312,412,109. Included in the expenditure was Kshs.24,554,212 in respect to other operating expenses. Review of the records revealed that an amount of Kshs.2,000,000 was paid for subscription fees to the County Assemblies Forum (CAF) without supporting legislation, guidelines and policies to confirm the authenticity of the payment contrary to Section 149(1) of the Public Finance Management Act, 2012, which requires that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the Officer is designated are used in a way that is; (a) lawful and authorized and (b) effective, efficient, economical and transparent.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

16. Poor Management of Assets – Grounded Motor Vehicles

Annex 4 – summary of non-current asset register shows an historical cost balance of Kshs.1,537,275,658 as at 30 June, 2024. The balance includes an amount of Kshs.43,650,048 in respect to transport equipment. Review of records and asset register revealed that the County Assembly owns seven (7) motor vehicles. However, physical verification of the motor vehicles conducted on 2 October, 2024 revealed that out of seven (7) vehicles, two (2) vehicles procured at a cost of Kshs.2,854,368 and Kshs.5,482,840 respectively were grounded since financial year 2022/2023. Management did not provide an explanation on action being taken to salvage the assets from impairment and loss of value.

In the circumstances, existence of an effective mechanism to safeguard assets could not be confirmed.

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COUNTY ASSEMBLY OF KILIFI – NO.3

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

17. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects total receipts amount of Kshs.1,189,781,973 against total payments amounting to Kshs.1,190,499,600 resulting to over-funding of Kshs.717,627 that is inconsistent with cash basis of accounting. Further, the statement reflects transfers to Exchequer (CRF) amount of Kshs.25,826 which differs with the statement of financial position net financial assets carried forward balance of Kshs.1,199,437 resulting to an unreconciled variance of Kshs.1,173,611. In addition, other disclosures in Note 5 reflects contingent liabilities balance of Kshs.3,881,138 whereas Annex 6 reflects an amount of Kshs.2,503,938 resulting to an unreconciled variance of Kshs.1,377,200.

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

Other Matter

18. Unresolved Prior Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management indicated that some of the issues raised had not been resolved or given explanation for failure to implement as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

19. Non-Compliance with the National Cohesion and Integration Act, 2008

The staff establishment provided indicates that the County Assembly had one hundred and twenty-five (125) staff out of whom three (3) were persons living with disability and one hundred and fourteen (114) or 91% from the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 that states that no public establishment shall have more than one third of its staff from the same ethnic community.

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

20. Delay in Construction of the County Assembly Office Block

As previously reported, the construction of the County Assembly Office Block was awarded to a local company at a contract sum of Kshs.508,549,889 on 12 February, 2016. The project objective was to create more office accommodation for the staff and members

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of the County Assembly. As at 30 September, 2023, the valuation of works was Kshs.155,985,743 and the project cost was reduced to Kshs.350,771,955 through a Circular from The National Treasury. During the year under review an amount of Kshs.96,842,929 was incurred on the project and it was still incomplete.

In the circumstances, value for money of the accumulated payments of Kshs.252,828,672 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

21. Failure to Establish Audit Committee

As previously reported, the Management had not constituted the Audit Committee. Further, although the Internal Audit Department was in place, evidence of its plan execution and Management responses to internal audit reports were not provided for audit.

In the circumstances, the existence of an effective mechanism of internal controls and oversight systems could not be confirmed.

22. Lack of Approved Staff Establishment

As previously reported, the County Assembly did not provide an approved staff establishment to indicate the authorized staffing levels in position for each category of employee and or any variance thereof. Further, no evidence was provided to indicate that the County Assembly had carried out job evaluation to determine the staff requirements for each category contrary to Section B.5(2) of the County Public Service Human Resources Manual, 2013 which states that all vacancies shall be declared in a prescribed format which shall include number of vacancies, date of vacancy occurrence and whether it's within the authorized staff establishment and other relevant details.

In the circumstances, the existence of an effective system of evaluating staff performance could not be confirmed.

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COUNTY ASSEMBLY OF TANA RIVER – NO.4

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

23. Unsupported Payments on Insurance Costs

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects payments totalling Kshs.427,218,144 in respect of use of goods and services. Included in the payments is an amount of Kshs.10,000,000 to an insurance company to provide group medical insurance cover for members of the County Assembly and staff at contract sum of Kshs.27,499,980 for a contract period of one (1) year commencing on 21 February, 2024. However, the contract agreement was not signed by the representatives of the service provider while the payment of Kshs.10,000,000 was not supported by certified invoices and insurance policy document to confirm the number of beneficiaries covered.

In the circumstances, the accuracy and completeness of the payments totalling Kshs.10,000,000 on insurance costs could not be confirmed.

24. Non-Disclosure of Other Pending Payables Balance

Note 3 on other disclosures reflects a balance of Kshs.166,073,029 in respect of other pending payables and as disclosed in Annex 3 includes an amount of Kshs.19,139,631, Kshs.142,638,398 and Kshs.4,296,000 payable to Kenya Revenue Authority (KRA), Car Loan and Mortgage and National Social Security Fund (NSSF) respectively. However, the reported balance excludes statutory deductions balance of Kshs.5,452,322 that were not remitted to KRA during the year under review.

In the circumstances, the accuracy and completeness of the accounts payable balance of Kshs.166,073,029 could not be confirmed.

Emphasis of Matter

25. Pending Accounts Payable and Staff Payable

Annexes 2 and 3 to the financial statements reflect a balance of Kshs.168,573,029 in respect of pending bills out of which a balance of Kshs.166,073,029 relates to other pending payables while the balance of Kshs.2,500,000 relates to pending staff payables. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions to the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

26. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public

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Resources. However, Management had not resolved the issues or given any explanation for failure to implement the recommendation as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

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

The statement of receipts and payments and as disclosed Note 4 to the financial statements reflects payments totalling Kshs.331,210,106 in respect of compensation of employees. Review of payment records revealed that three (3) members of the County Assembly were paid a total of Kshs.2,808,000 in form of sitting allowances in the year under review instead of the maximum allowable payment of Kshs.1,560,000 resulting in excess payment totalling Kshs.1,248,000 contrary to the Salaries and Remuneration Commission guidelines issued through the Kenya Gazette Ref. Vol.CXXV-No.177 dated 9 August, 2023.

Further, one (1) Member of County Assembly and one employee of the County Assembly were paid salary amount of Kshs.378,040 per month translating to Kshs.4,536,480 per year. The payment was made outside the IPPD contrary to the guidelines in circular reference number OP.CAB.1/31A of 04 August, 2022 by the head of Public Service which required that remuneration of all county staff be processed through the computerized system.

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

28. Irregular Recruitment of Deputy Clerks

The County Assembly recruited three (3) Deputy Clerks during the financial year. The vacant posts were advertised in a local newspaper on 13 December, 2023. The County Assembly shortlisted a total of forty-five (45) applicants for interviews held between 22-24 February, 2024. However, the interview score sheets, minutes of the interview process, were not provided for review. The recruitment was not supported by annual recruitment plans developed by the Board at the beginning of each financial year contrary to paragraph B. 2(ii) of the revised Human Resource Manual of the County Assemblies, 2015 which requires the County Assemblies Service Board to develop annual recruitment plans at the beginning of each financial year to enable it plan to fill the vacancies

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

29. Non-Compliance with the Law on Supplementary Budgeting Process

The County Assembly had an initial approved budget estimate of Kshs.1,008,437,753 which was increased in the Supplementary Estimates by Kshs.35,000,000 to Kshs.1,043,437,754. However, the increase in the programs and sub votes exceeded the allowable 10% contrary to Regulation 39(9) of the Public Finance Management (County Governments) Regulations, 2015 which provides that in approving any estimates under Sections 135 and 154 of the Act, that County Assembly approval shall not exceed ten

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(10%) percent of the approved budget estimates of a program of Sub-Vote unless it is for an unforeseen and unavoidable need as defined in Section 112 of the Act.

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

30. Non-Compliance with Approved County Assembly Expenditure Threshold

The County Assembly had an approved budget of Kshs.1,043,437,754 while the total revenues of the County Government was Kshs.8,869,497,866. The County Assembly ought to have received seven percent (7%) equivalent to Kshs.620,864,850 or twice the compensation of the employees which amounts to Kshs.690,469,252 whichever is lower. Instead, the budget for the County Assembly was in excess of allowable amount by Kshs.422,572,904. This was contrary to Regulation 25 (1) (f) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the approved expenditures of a County Assembly shall not exceed seven percent of the total revenues of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

31. Delay in the Construction of Speaker's Residence

The County Assembly awarded a contract for the completion of the speaker's residence to a contractor at a cost of Kshs.28,844,540 as per contract agreement dated 20 November, 2023. The contract was expected to be completed within a period of six (6) months. However, at the close of the year, the contractor had only issued interim payment certificate number 1 of Kshs.4,970,244. The contract period had lapsed on 20 May, 2024 but there was no evidence that an extension of contract had been sought and granted. Physical verification carried out on 13 September, 2024 revealed that the project had not been completed and only the substructure works had been done. The construction of the project had earlier been awarded to a contractor on 16 April, 2020 at a contract cost of Kshs.28,088,685 as per letter of notification. The contract was later terminated on 14 May, 2021 after the contractor had been paid Kshs.9,328,310. However, a valuation report indicating the scope of works achieved at the time of termination of contract was not provided.

In the circumstances, the value for money of the expenditure of Kshs.14,298,554 incurred on the project could not be confirmed.

32. Failure to Prepare Monthly Progress Report

Review of payment and bank account records revealed that, payments totalling Kshs.312,545,252 was paid to various contracted firms. However, monthly progress report on implementation of the contracts for the projects was not maintained. Further, the projects that had been earmarked for implementation in the year by the County Assembly had not been itemized in the approved budget estimates as required.

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

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Basis for Conclusion

33. Grounded and Unaccounted for Motor Vehicles and Motor Cycles

Review of the asset register indicates that the County Assembly has ten (10) motor vehicles and fifteen (15) motor cycles. However, verification exercise of the assets revealed that seven (7) motor vehicles acquired at a cost of Kshs.50,207,246 and registered between 2014 and 2016 and eight (8) motor cycles acquired at a cost of Kshs.3,072,600 all registered in October, 2015 were grounded within the County Assembly premises. However, inspection reports were not provided to confirm the reasons for the vehicles being grounded, extent of damage that led to grounding and the motor vehicle inventory as at the time of grounding of the motor vehicles and motor cycles. In addition, the asset register includes three (3) motor vehicles acquired in 2016 at a cost of Kshs.21,115,554 and seven (7) motor cycles acquired on in October, 2015 at a cost of Kshs.2,688,525 all of which were not accounted for.

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

34. Ineffective Internal Audit and Oversight Committee

34.1. Failure to Establish an Audit Committee

As previously reported, the County Assembly had not constituted an Audit Committee to provide oversight on the overall operations of the County Assembly. This was contrary to Regulation 42 1(e) of the Public Finance Management (County Governments) Regulations, 2015 which requires an Accounting Officer to ensure each county government entity has an Audit Committee in place.

34.2. Lack of a Functional Internal Audit

Review of the operations of the Internal Audit Department revealed that the County Assembly had an Internal Audit Unit in place with only two (2) staff members. Further, the Department did not develop an annual work plan or prepare any internal audit report. This was contrary to Regulation 155 (2) (a) of the Public Finance Management (County Governments) Regulations, 2015 which provides that an Accounting Officer shall ensure that the organizational structure of the internal audit facilitates the entity to accomplish its internal audit responsibilities and that an internal audit planning shall be carried out on the basis of risk assessment and shall be set out in a three (3) year Strategic Plan on the basis of which an annual internal audit activity plan shall be developed.

In the circumstances, the existence of an effectiveness of internal control systems established by the County Assembly could not be confirmed.

35. Lack of Risk Management Policy and Strategy

The County Assembly operated without an Approved Risk Management Policy for management of risk and increase of overall awareness of risk throughout the County Assembly. Further, there was no documentary evidence to confirm that the County

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Assembly conducted risk assessment to identify potential risk exposure, possibility of their occurrence and their mitigating strategies which include fraud prevention mechanism; and a system of risk management and internal control that builds robust business operations.

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

36. Lack of Approved ICT Policy

Review of the County Assembly's ICT environment revealed lack of ICT Policy which is required to provide guidance on Information Technology governance, security management, program change management, physical access controls, environmental controls, IT service continuity and logical access control. Further, there was no Data Security Policy and Disaster Recovery Plans.

In the circumstances, the County Assembly did not have tools to minimize risk of errors, fraud and the loss of data, confidentiality and integrity.

37. Lack of Training Policy/Training Needs Assessment

Included in the approved estimates is an allocation of Kshs.19,257,671 to cater for staff training in the year. However, review of the financial statements indicates that only Kshs.1,176,000 or 6% of the approved budget was spent on training during the year. Management did not provide skills inventory, a report on training needs identified by the County Assembly Service Board, training projections and recommendations prepared by the County Assembly to guide the training and nomination of officers for training.

In the circumstances, the effectiveness of human resource controls on training could not be confirmed.

38. Failure to Clear Backlog in the Interrogation of Audit Reports

The County Assembly Public Accounts and Investment Committee (PAIC) had not deliberated on the Auditor-General's reports for the financial years 2020/2021,2021/2022 and 2022/23 contrary to Section 50(1)(2) of the Public Audit Act, 2015 which states that within three (3) months of receiving an audit report referred to under subsection (1), Parliament or the relevant County Assembly shall debate and consider the report and take appropriate action.

In the circumstances, the effectiveness of the County Assembly Public Accounts and Investment Committee (PAIC) to effectively discharge their mandate could not be confirmed.

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COUNTY ASSEMBLY OF LAMU – NO.5

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

39. Variances between Financial Statements and Integrated Financial Management Information System

Review of the financial statements presented for audit revealed amounts that differ with Integrated Financial Management Information System (IFMIS) records as detailed below:

Component	Financial Statements-(Kshs)	IFMIS Trial Balance-(Kshs)	Variances-(Kshs)
Acquisition of assets	19,950,161	20,604,777	(654,616)
Cash Balance	0	58,692,700	(58,692,700)
Accounts Receivables	0	10,344,865	(10,344,865)
Retentions	1,178,328	(94,181,204)	(95,359,532)

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

Emphasis of Matter

40. Budgetary Control and Performance

The summary statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.589,500,000 and Kshs.427,368,719 respectively resulting to an under-funding of Kshs.162,131,281 or 27% of the budget. However, the Assembly spent a balance of Kshs.425,711,413 against actual receipts of Kshs.427,368,719 resulting to an under-utilization of Kshs.1,657,306 or 0.4 %.

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

My opinion is not modified in respect of this matter.

Other Matter

41. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues by 30 June, 2024 given any explanation for failure to implement the recommendations.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Conclusion

42. There were no material issues raised on lawfulness and effectiveness in the use of public resources.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

43. Lack of Internal Audit Function and Audit Committee

The County Assembly Board has established an internal audit function. However, during the year under review, the Office of Internal Auditor was vacant and the recruitment process had not commenced. Further, the Audit Committee was also not constituted. This is contrary to Section 155 of the Public Finance Management Act, 2012 which provides for the establishment of internal audit function and an Audit Committee. As such, the County Assembly did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

In the circumstances, the governance structure of the County Assembly and the effectiveness of the internal control systems and checks and balances could not be confirmed.

44. Lack of Ownership Documents

Annex 1 on summary of non-current assets register reflects total assets historical cost amount of Kshs.591,514,075. The amount includes land valued at Kshs.122,027,040 comprising of the County Assembly office block and the Speaker's house. However, the value of the land on which the Speaker's house is built has not been disclosed separately in the assets register and its title deed was not provided for audit.

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

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COUNTY ASSEMBLY OF TAITA/TAVETA – NO.6

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

45. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following anomalies;

(i) The statement of financial assets and liabilities reflects imprests and advances, third party deposits and retentions, fund balance brought forward and prior year adjustment of Nil, Kshs.5,989,441, Kshs.374,949 and Kshs.641,300 respectively, which does not correspond with Notes 14, 15, 16 and 17 to the financial statements respectively. The inconsistencies were not explained.

(ii) The fund balance brought forward from previous year 2022/2023 was Kshs.5,743,460 but the statement of financial assets and liabilities reflects a balance of Kshs.374,949, resulting to an unexplained or unreconciled variance of Kshs.5,368,511.

(iii) The statement of cashflows reflects cash and cash equivalents at start of the year of Kshs.4,269,686 while the balance at the end of the previous year is reflected as Kshs.6,767,433, resulting to unexplained or unreconciled variance of Kshs.2,497,747.

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

46. Unsupported Domestic Travel and Subsistence

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services amounting to Kshs.411,626,523 which includes an amount of Kshs.229,086,426 on domestic travel and subsistence. Review of payment records revealed that Management paid transport facilitation amounting to Kshs.10,836,500 to various officers to attend various County Assembly activities at flat rates of between Kshs.3,000 and Kshs.19,000. Although the various rates applied for the transport allowance had been approved by the County Assembly Service Board (CASB), no evidence was provided to confirm whether Management sought the concurrence of the Salaries and Remuneration Commission (SRC).

Further, payments amounting to Kshs.3,053,800 in relation to domestic travel and subsistence were not supported with acknowledgement of receipt by the beneficiaries.

In the circumstances, the accuracy and regularity of the domestic travel and subsistence expenditure of Kshs.229,086,426 could not be confirmed.

47. Irregular Payment of Subscription to County Assembly Forum

The statement of receipts and payments and Note 12 to the financial statements reflect other payments amounting to Kshs.55,076,927. Included in the amount is an expenditure of Kshs.2,000,000 being the 1st installment subscription to the County Assembly Forum

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(CAF). However, the payment was not supported by any legal backing or supporting policy guidelines.

In the circumstances, the completeness and regularity of the payment to the County Assembly Forum of Kshs.2,000,000 could not be confirmed.

48. Unsupported Fuel, Oil and Lubricants

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services amounting to Kshs.411,626,523 which includes an amount of Kshs.9,450,003 incurred on fuel, oil and lubricants. The County Assembly used prepaid fuel cards to manage fuel consumption but Management did not maintain fuel register. Analysis of the supplier's fuel statements for the year under review revealed that an amount of Kshs.6,922,920 was incurred but fuel costing Kshs.1,493,769 was drawn by unidentified vehicles.

In the circumstances, the accuracy, completeness and regularity of the fuel, oil and lubricants expenditure of Kshs.9,450,003 could not be confirmed.

Other Matter

49. Unresolved Prior Year Audit Issues

In the audit report of the previous financial year, several issues were raised under the Reports on Financial Statements, Lawfulness and Effectiveness in Use of Public Resources and Effectiveness of Internal Controls, Risk Management and Governance. Although Management has indicated that three (3) of the issues were resolved, the stated status was not supported.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

50. Unsupported Project Implementation

The statement of receipts and payments and Note 10 to the financial statements reflect acquisition of assets amounting to Kshs.31,315,182 which includes an amount of Kshs.28,307,231 incurred on construction of buildings. The County Assembly awarded a tender to a local contractor for the proposed construction of the County Assembly Chambers at contract sum of Kshs.247,010,748 for a period of 1,440 days, from 20 February, 2022 to be completed on 30 June, 2026. However, the program of works guiding the project implementation was not provided for audit.

The development budgets for the financial years 2022/2023 and 2023/2024 were Kshs.50,000,000 and Kshs.70,000,000 respectively. However, the actual expenditure on the project was Kshs.66,590,181 as at 30 June, 2024, resulting to an under absorption of the budget by Kshs.53,409,819, or about 45%.

In the circumstances, the slow absorption of development fund may have impacted negatively on the service delivery to the public.

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51. Non-Compliance with the Law on Staff Ethnic Composition

Review of human resources records provided revealed that the County Assembly has a workforce of one hundred and five (105) staff out of whom eighty-two (82) or 78% are from the same ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community.

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

52. Non-Compliance with the One-Third of Basic Salary Rule

Review of the Integrated Payroll and Personnel Database (IPPD) for the month of June, 2024, revealed that eighteen (18) employees had net pay that was less than one-third of their respective basic salaries. This was contrary to Section 19(3) of the Employment Act 2007 which states that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all the deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages.

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

53. Irregular Promotions of Employees

Review of human resource records revealed that Management promoted two (2) officers to positions that did not exist in the County Assembly's approved staff establishment. One officer was promoted from the position of Principal Public Communication and Media Relations Officer (Job Group Q) to Director Research and Information Services (Job Group R) effective from 2 April, 2024 and the other one was promoted from the position of Chief Assistant Office Administrator (Job Group M) to Principal Assistant Office Administrator (Job Group N) effective from 2 April, 2024. However, the two positions did not exist in the approved staff establishment and details of the positions' schemes of service, roles and responsibilities were not provided.

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

54. Poor Management of Imprest

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services amounting to Kshs.411,626,523 which includes domestic travel and subsistence of Kshs.229,086,426. Review of expenditure records revealed that Management issued imprest amounting to Kshs.15,108,500 towards the operations costs of the thirty-two (32) Ward offices. The imprest was irregularly processed in the name and through the bank account of a County Assembly staff who later transferred Kshs.6,847,500 to seven (7) officially operated Wards accounts and Kshs.8,261,000 to the personal bank accounts of twenty-five (25) Ward Officers. This was contrary to Section 14 of the Taita Taveta Assembly Ward Offices Act, 2020 which requires that at the commencement of every financial year the Ward Office Manager to be issued with an Authority to Incur Expenditure by the Clerk for the approved budget in respect of that ward for that financial year and an initial amount to be credited to the account of the ward.

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

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REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

55. Internal Controls and Risk Management

During the year under review, the County Assembly operated without approved Risk Management Policy and Strategies, Information System Disaster Recovery Plan and a Business Continuity Plan. Further, review of the County Assembly IT internal controls and an interview contacted revealed that there was no IT Strategic Committee. Further, the computers used by the County Assembly did not have activated and updated and licensed anti-virus to safeguard the security of the data.

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

56. Slow Implementation of Internal Audit and Audit Committee Recommendations

Review of internal audit reports revealed that the internal audit department and Audit committee raised issues and made recommendations on the operations of the County Assembly on inventory management, project County Assembly Chamber, outstanding imprests, unsupported payments and ward office operations. However, Management was slow in implementation of the recommendations. No explanation was provided for the delay.

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

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COUNTY ASSEMBLY OF GARISSA – NO.7

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

57. Inaccuracies in Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.69,202,630. However, the corresponding Note 5 to the financial statements reflects an amount of Kshs.58,102,183 resulting in an unreconciled variance of Kshs.11,100,447. Further, Annex 3 to the financial statements on summary of non-current asset register reflects additions to non-current assets balance of Kshs.114,769,920 which differs from the acquisition of assets balance of Kshs.69,202,630 resulting in an unreconciled variance of Kshs.45,567,290.

In the circumstances, the accuracy and completeness of the acquisition of assets amount of Kshs.69,202,630 could not be confirmed.

58. Unsupported Third-Party Deposits and Retention

The statement of financial assets and liabilities reflects third-party deposits and retention balance of Kshs.11,100,447 as disclosed in Note 7 to the financial statements. However, the balance was not supported by schedules indicating details of third parties and amounts owed to each.

In the circumstances, the accuracy and completeness of the retention deposit balance of Kshs.11,100,447 could not be confirmed.

59. Unsupported Expenditure on Use of Goods and Services

The statements of receipts and payments and as disclosed under Note 3 to the financial statements reflects use of goods and services payments amounting to Kshs.248,123,519. The following unsatisfactory matters were noted:

59.1. Domestic Travel and Subsistence Allowances

Included in the expenditure is an amount of Kshs.113,796,931 in respect of domestic and subsistence allowances. Review of payment records provided for audit revealed that allowances amounting to Kshs.4,296,900 was paid to officers who attended workshops, training and other official duties outside Garissa County. The payments were, however, not supported with invitation letters, pre-travel approval by Management, training programs, workshop attendance registers and evidence of travel.

59.2. Hospitality, Supplies and Services

Included in the expenditure amount also is Kshs.3,609,048 in respect of hospitality, supplies and services. However, review of payment records revealed that an expenditure of Kshs.555,000 was not supported by need assessment reports, evidence of attendance and participation, training schedules and timetable.

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59.3. Procurement of Legal Services

The statement of receipts and payments reflects an amount of Kshs.248,123,519 in respect of use of goods and services as disclosed in Note 3 to the financial statements. Included in the amount is Kshs.28,653,278 paid as other operating expenses, out of which payments amounting to Kshs.6,454,689 were made to a legal firm for provision of legal services. Although the firm was included in the list of prequalified legal service providers, documents in support of the identification and subsequent engagement of the law the firm were not provided for audit review.

In the circumstances, the regularity and completeness of the payments amounting to Kshs.6,454,689 could not be confirmed.

Emphasis of Matter

60. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: Recurrent and Development reflects final receipts budget and actual on comparable basis of Kshs.1,116,731,729 and Kshs.986,521,283 respectively, resulting in an under-funding of Kshs.130,210,446 or 12% of the budget. However, the County Assembly spent Kshs.986,520,726 against the actual receipts of Kshs.986,521,283 resulting in an under expenditure of Kshs.557 of the actual receipts.

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

My opinion is not modified in respect of this matter.

Other Matter

61. 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 issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

62. Non-Adherence to Fiscal Responsibility Principle on Transfers to the County Assembly

The statement of receipts and payments reflects transfers from the County Revenue Fund of Kshs.986,521,283 as disclosed in Note 1 to the financial statements. However, the amount represents 12% of the total revenue of Kshs.8,431,746,502 realised by the County Government. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the approved expenditure of the County Assembly shall not exceed seven percent (7%) of the total revenues of the County Government or twice the personnel costs, whichever is lower.

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

63. Non-Compliance with County Assembly Staffing Level

Review of the Assembly Integrated Payroll and Personnel Database (IPPD) for June, 2024 revealed that the County Assembly had one hundred and eleven (111) employees against the approved limit of one hundred (100) employees as per Commission on Revenue Allocation Circular Ref CRA/FA/01VOL11(22), resulting in over-employment by eleven (11) employees.

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

64. Non-Compliance with the One-Third of Basic Salary Rule

Review of the County Assembly payroll for the year under review revealed that seven (7) employees received net salaries that was less than one third of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which stipulates that without prejudice to any right of recovery of any debt, the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages and Accounting Officers should ensure compliance.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

65. Lack of a Functional Internal Audit Committee

Review of the operations and records of the Internal Audit Department revealed that, the County Assembly had established an Internal Audit Unit and an Audit Committee. However, no evidence was provided indicating that internal audit reports were deliberated by the Audit Committee during the year under review and recommendations issued to Management for corrective action.

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

66. Land without Ownership Documents

Annex 3 of the financial statements on summary of non-current assets reflects a balance of Kshs.336,337,976, which includes a parcel of land valued at Kshs.60,000,000, which hosts the County Assembly Chambers, office block, and other buildings. However, Management did not provide ownership documents such as title deeds or allotment letters.

In the circumstances, the existence of effective internal controls in safeguarding the assets could not be confirmed.

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COUNTY ASSEMBLY OF WAJIR – NO.8

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

67. Irregularities in the Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.433,147,302 in respect of use of goods and services as disclosed in Note 3 to the financial statements. However, the following unsatisfactory matters were noted:

67.1. Over-Payment of Mileage Allowance

The balance includes domestic travel and subsistence allowances of Kshs.194,142,533. However, review of records provided for audit reflects mileage allowances amounting to Kshs.91,559,265 paid to Members of the County Assembly. Analysis of the claims based on actual distances from Wajir County Headquarter to the respective wards as provided by the Ministry of Transport and Infrastructure, revealed Members were overpaid by an amount of Kshs.11,194,828.

67.2. Unsupported Procurement for Advertisement Services

Included in the amount are printing, advertising and information supplies & services costs of Kshs.5,599,910. However, review of the ledgers provided for audit indicated that an amount of Kshs.2,200,000 was incurred on advertisement services. The expenditure was not supported by user requisition as basis for initiation of the procurement process and the services were single sourced from one media house.

In the circumstances, the accuracy and occurrence of expenditure could not be confirmed.

68. Irregular Cash Payments in IFMIS

Analysis of the Integrated Financial Management Information System (IFMIS) payment transactions for the year under review revealed that ninety-one (91) transactions with total value of Kshs.26,125,960 were paid in cash as per the item description. However, payments amounting to Kshs.1,933,000 were not supported and reported in the financial statements. Cash payments by its nature are high risk and susceptible to misuse.

In the circumstances, the accuracy and occurrence of the cash payments amounting to Kshs.1,933,000 could not be confirmed.

Emphasis of Matter

69. Late Exchequer Releases

Review of records provided for the audit indicated that the County Assembly received Exchequer releases amounting to Kshs.282,441,016 during the month of June, 2024. Late Exchequer releases may have negatively affected implementation of budgeted programs and activities of County Assembly.

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70. Long Outstanding Pending Bills

Note 16.1 under other important disclosures reflects pending accounts payable balance of Kshs.144,645,537. However, review of the pending bills revealed that some of the bills dated back to the 2014/2015 financial year. The bills should have been prioritized payments in the subsequent years budgets, as required by Regulation 41(2) of the Public Finance (County Governments) Regulations, 2015, which requires that debt service payments be treated as a first charge on the County Revenue Fund.

Failure to settle pending bills on time may expose the County Assembly to unnecessary costs which may arise as a result of litigation, fines and penalties.

My opinion is not modified in respect of these matters.

Other Matter

71. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues or given any explanation for the failure to implement the recommendations as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

72. Non-Compliance with Staffing Level Ceiling

Review of the County Assembly's payroll for the month of June, 2024 indicated that the County Assembly had a total of one hundred and sixty-nine (169) employees. The Commission on Revenue Allocation recommendation through Circular dated 28 June, 2018 on County Government Recurrent Expenditure ceilings addressed to County Governors and Speakers of County Assemblies, capped the maximum number of employees of County Assemblies under group 2 under which County Assembly of Wajir falls, at one hundred (100). As a result, the County Assembly exceeded the maximum recommended number of employees by sixty-nine (69).

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

73. Non-Compliance with Law on Ethnic Composition

Examination of the County Assembly payroll for June, 2024 indicated that the Assembly had a total of one hundred and sixty-nine (169) employees. However, analysis of the employees' data revealed that 99% of the employees were from the domain ethnic community with only 1% from other ethnic communities. This was contrary to Section 7 of the National Cohesion and Integration Act, 2008 which states that all public establishments shall seek to represent the diversity of the people of Kenya in the Employment of Staff. No public establishment shall have more than one-third of its staff from the same ethnic community.

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

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74. Non-Compliance with the One-Third of Basic Salary Rule

Review of the County Assembly payrolls for the year under review revealed that two (2) employees received net salaries in June, 2024 that were less than one-third of their respective basic salaries while three (3) employees received net salaries in May, 2024 which were less than one-third of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which stipulates that without prejudice to any right of recovery of any debt due and notwithstanding the provisions of any other written law, the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

75. Non-Compliance with Ward Partisan Staffing Levels

During the year under review the County Assembly engaged ward partisan staff for the elected and nominated Members of County Assembly (MCAs). Review of the Ward staff payroll provided revealed that the County Assembly employed a total of two hundred and fifty-nine (259) partisan staff for the Wards against the limit of one hundred and forty-four (144) for the forty-eight (48) elected and nominated MCAs in the County. As a result, the County Assembly exceeded the recommended maximum number of staff by one hundred and fifteen (115). This was contrary to the Commission on Revenue Allocation circular dated 21 October, 2020 on Advisory of Ward Offices Operation Costs which recommends a maximum of staff per ward and to be paid a minimum salary of Kshs.30,341. In addition, the County Assembly paid a monthly salary ranging from Kshs.15,000 to Kshs.25,000 instead of the minimum amount of Kshs.30,341 recommended by the Commission on Revenue Allocation.

In the circumstances, Management was in breach of law.

76. Irregular Payment to the County Assembly Forum and Society of Clerks-At-The Table

The statement of receipts and payments reflects use of goods and services amount of Kshs.433,147,302 as disclosed in Note 3 to the financial statements. Included in the expenditure are an amounts of Kshs.5,000,000 and Kshs.750,000 paid to the County Assemblies Forum and Society of Clerks-At-The Table respectively, for subscriptions to the organizations. However, the payments lacked legal backing or supporting policy guidelines.

In the circumstances, value for money and regularity of the subscription's expenditure of Kshs.5,750,000 could not be confirmed.

77. Non-Adherence to Fiscal Responsibility Principle

The County Assembly approved revenue budget and actual expenditure for 2023/2024 financial year amounting to Kshs.997,050,023 and Kshs.999,537,966 respectively. During the year, the County Assembly incurred a total expenditure of Kshs.1,195,528,753 inclusive of an amount of Kshs.196,275,261 paid by the County Executive on its behalf. However, the total County Government Revenue collection for the year amounted to Kshs.11,143,480,018 resulting to 11% of the total County Government Revenue having been spent by the County Assembly. This was contrary to Regulation 25(1)(f) of the Public

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Finance Management (County Governments) Regulations, 2015 which provides that the approved expenditures of a County Assembly shall not exceed seven per cent (7%) of the total revenues of the County Government or twice its personnel costs whichever is lower.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

78. Processing of Salary by Use of Manual Payroll

Review of the County Assembly's payroll revealed that the County Assembly maintained two (2) sets of payrolls. One payroll in the Integrated Payroll and Personnel Database (IPPD) while the other payroll was in Excel spreadsheet. Management cited lack of personal numbers as the reason for the failure to process the salaries through the Integrated Payroll and Personnel Database. However, no satisfactory explanation was provided for the delay in obtaining personal number for one (1) staff member and the two (2) Members of County Assembly whose salaries were processed through manual payroll.

In the circumstances, processing of salaries of staff and Assembly Members through manual payroll may expose the County Assembly to fraudulent payments.

79. Effectiveness of the Internal Audit Unit and Audit Committee

Review of the Internal Audit Unit of the County Assembly revealed that the unit had only two (2) staff members. During the year under review, the unit carried one (1) audit exercise covering major sections of the County Assembly's financial operations. However, the Unit did not submit the report of the exercise to the Audit Committee for deliberation and necessary action. Although the Audit Committee held meetings during the year, there was no evidence that it discussed any external or internal audit report.

As a result, the effectiveness of the internal controls, risk management and governance could not be confirmed.

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COUNTY ASSEMBLY OF MANDERA – NO.9

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

80. Unsupported Domestic Travel and Subsistence Allowances

The statement of receipts and payments reflects use of goods and services amount of Kshs.278,576,333 as disclosed in Note 3 to the financial statements. Included in the amount is domestic travel and subsistence allowances of Kshs.74,332,894. However, review of payment vouchers provided for audit revealed that expenditure amounting to Kshs.3,163,786 was not supported by way of invitation letters to attend the meetings, approval letters, program of events, work or bus tickets and attendance registers.

In the circumstances, the accuracy and completeness of domestic travel and subsistence allowances amounting to Kshs.3,163,786 could not be confirmed.

81. Anomalies in Cash and Cash Equivalents Balance

The statement of financial assets and liabilities reflects cash and bank balances of Kshs.18,413,341 as disclosed in Note 6A to the financial statements. However, review of the cash books, bank reconciliation statements, bank statements and certificate of bank balances provided in support revealed the below anomalies:

Note 6A to the financial statements reflects bank account balance of Kshs.18,413,341 in respect of one commercial bank retention account. However, certificate of bank balance reflected a balance of Kshs.17,465,796 as at 30 June, 2024 resulting in an unexplained variance of Kshs.947,545. Further, the summary page of the cash book as at the close of financial year was not signed by the Board of Survey members.

Further, Note 6A to the financial statements reflects Nil bank balance in respect of Service Board account. However, the certificate of bank balance revealed that the balance as at 30 June, 2024 was Kshs.976, resulting in unexplained and unreconciled variance of Kshs.976. Further, various alterations were noted in the cash book that were not counter-signed while the summary page of the cash books as at the close of financial year was not signed by Board of Survey members.

In addition, Note 6A to the financial statements reflects Nil bank balance in respect of Central Bank of Kenya recurrent Account. However, certificate of bank balance reflected a balance of Kshs.1,610,598 resulting into unexplained variance of Kshs.1,610,598. Further, various alterations were noted in the cash book that were not counter signed while the summary page of the cash books as at the close of financial year was not signed by Board of Survey members.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.18,413,341 could not be confirmed.

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82. Unsupported Voided Payments

Analysis of the Integrated Financial Management Information System (IFMIS) revealed that forty (40) transactions amounting to Kshs.5,560,199 were voided before final payment stage. However, supporting documents including voided payment vouchers, requests to void payments, The National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit. Further, no evidence was provided to support authorization for voiding of the transactions which had been approved and funded by the Controller of Budget. In addition, the details of the payments made in place of those that were voided together with approvals from Controller of Budget were not provided for audit. The voided payments were not also disclosed as pending accounts payables.

In the circumstances, the completeness of total voided transactions amounting to Kshs.5,560,199 and utilization of funds meant for the voided transactions in the financial statements could not be confirmed.

Emphasis of Matter

83. Late Exchequer Releases

During the year under review, the County Assembly received Exchequer releases totalling Kshs.954,793,083 from the County Treasury. Included in the amount are releases received late in the months of June and July, 2024 totalling Kshs.296,219,140 representing 31% of the total receipts. Delayed release of Exchequer adversely affected the implementation of budgeted programs and activities to the detriment of service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

84. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board template as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

85. Irregular Expenditure on Subscriptions

The statement of receipts and payments reflects an amount of Kshs.278,576,333 in respect of use of goods and services as disclosed in Note 3 to the financial statements. Included in the amount is other operating expenses amounting to Kshs.32,451,105., Review of subscription records provided for audit revealed that an amount of Kshs.6,000,000 and Kshs.750,000 were paid to the County Assembly Forum (CAF) and

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Society of Clerks-At-The Table (SOCATT) respectively as subscription fees. However, the payments lacked legal backing or supporting policy guidelines.

In the circumstances, the regularity of the subscription's expenditure amount of Kshs.6,750,000 could not be confirmed.

86. Non-Compliance with Ward Partisan Staffing Levels

The statement of receipts and payments reflects an amount of Kshs.425,596,043 in respect of compensation of employees as disclosed in Note 2 to the financial statements. Included in the amount is basic wages of temporary employees amounting to Kshs.49,833,338, out of which an amount of Kshs.41,575,000 was paid in respect of Ward partisan staff wages and gratuity. However, review of the records provided revealed that the County Assembly employed a total of two hundred and three (203) partisan staff for the Wards against the set limit of one hundred and forty-four (144) as per Circular dated 21 October, 2020 on Advisory of Ward Offices Operation Costs from the Commission on Revenue Allocation. Further, the County Assembly paid a monthly salary ranging from Kshs.15,000 to Kshs.25,000 instead of the recommended minimum amount of Kshs.30,341.

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

87. Non-Compliance with National Cohesion and Integrated Act, 2008

Review of the payroll data as at 30 June, 2024 revealed that the County Assembly had a total of ninety-seven (97) staff members comprising permanent and pensionable and contract employees. However, analysis of the employees' data revealed that 53% of the employees were from the dominant community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 on ethnic composition thresholds requirements.

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

88. Delayed Implementation of Projects

88.1. Proposed Works at New County Assembly

The County Assembly entered into a contract agreement on 13 March, 2023 with a local contractor for the construction of paved parking, water reticulation, land scaping, washrooms, lift installation and other ancillary works at new County Assembly offices in Mandera Town at a contract sum of Kshs.170,498,000 for a contract period of twenty-four (24) months to be completed on 18 March, 2025. As at 30 June, 2024, an amount of Kshs.69,917,300 had already been paid to the contractor. However, physical inspection of the project carried out on 30 August, 2024 revealed that the delivery and installation of a lift had not started. In addition, the detailed progress report and interim completion certificate in respect of the project was not provided to confirm the level and percentage of work completed.

88.2. Proposed Speaker's Residence in Mandera Town

The County Assembly entered into a contract on 13 March, 2023 with a local contractor for proposed land scaping, water reticulation and construction of servant quarter at the

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Speaker's Residence in Mandera Town at a contract price of Kshs.31,584,834 for a contract period of twenty-four (24) months to be completed on 18 March, 2025. As at 30 June, 2024, an amount of Kshs.9,475,450 had already been paid to the contractor. However, physical inspection of the project carried out on 30 August, 2024 revealed that land scaping and water reticulation works were ongoing and in work in progress. However, detailed progress report of the project and interim completion certificate was not provided to confirm the level and percentage of work completed.

In the circumstances, value for money on the expenditure of Kshs.79,392,750 on incomplete projects could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

89. Failure to Establish Audit Committee

During the year under review, the County Assembly operated without an Audit Committee. This was contrary to Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County Government entity to establish an Audit Committee to monitor the entities governance process, accountability process and control systems, offer objective advice on issues concerning risk, control, regulatory requirements and governance. The Audit Committee was established on 1 June, 2024 after advertisement through a gazette notice on 9 December, 2023 and as result, the County Assembly Audit Committee did not meet at least once in every three (3) months to assess the operation of County Assembly contrary to Section 172 of the Public Finance Management Act, 2012.

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

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COUNTY ASSEMBLY OF MARSABIT – NO.10

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

90. Non-Disclosure of Retentions Deductions

The statement of financial assets and liabilities and as disclosed in Note 8 to the financial statements reflects an amount of Kshs.1,701,792 in respect to bank balances. However, review of the documents provided for audit for the proposed construction of Chambers for the County Assembly revealed that twelve (12) certificates had been issued to the contractors and an amount of Kshs.13,346,380 had been withheld as retentions amount. This amount had not been disclosed in financial statements. Further, the County Assembly had not opened an account for the retention money and supporting documents including retention account bank statements, cashbook, bank certificates and bank reconciliations were not provided for audit.

In the circumstances, the accuracy and completeness of bank balances totalling Kshs.1,701,792 could not be confirmed.

Emphasis of Matter

91. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget of Kshs.1,316,701,070 and actual receipt of Kshs.891,855,245 resulting to under-funding of Kshs.424,845,825 or 32% of the budget. However, the County Assembly spent an amount of Kshs.890,153,452 against actual receipts of Kshs.891,855,245 resulting to an under-utilization of Kshs.1,701,793 against the actual receipts.

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

92. Long Outstanding Accounts Payables

Note 1 under other disclosures reflects pending accounts payables balance of Kshs.431,767,745 as disclosed in Annex 1. The amount includes balance brought forward of Kshs.275,801,070 and additional bills of Kshs.219,829,639 incurred during the year under review out of which bills totalling Kshs.69,083,080 were paid. However, ageing analysis of accounts payables were not provided and the date of invoicing of the bills were not disclosed in Annex 1.

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

My opinion is not modified in respect of these matters.

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Other Matter

93. Unresolved Prior Year Matters

In the previous audit report several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Control, Risk Management and Governance. However, although Management indicated that some of the issues have been addressed, the matters remained unresolved as the Senate and County Assembly had not met to deliberate on the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

94. Non-Compliance with the One-Third of Basic Salary Rule

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects a balance of Kshs.251,669,199 in respect of compensation of employees. However, examination of the payroll records revealed that four (4) employees earned a net salary of less than one-third (1/3) of the basic salary contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee shall not exceed two-thirds (2/3) of such wages.

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

95. Avoidable Expenditure on Report Writing

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects a balance of Kshs.424,728,165 on goods and services which includes an amount of Kshs.116,357,475 in respect to domestic travel and subsistence. This further includes an amount of Kshs.4,039,000 paid as facilitation to members of staff for report writing event between date 8 and 12 November, 2023 in Isiolo. This was contrary to The National Treasury Circular No. 20/2015 of 4 November, 2015 which stipulates that in order to curtail expenditure on workshops and retreats, accounting officers are required to ensure that all workshops and retreats with majority of participants drawn from one duty station are held within the precincts of the duty station.

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

96. Delayed Completion of the Construction of County Assembly Chambers

The statement of receipts and payments reflects an amount of Kshs.107,213,597 in respect to acquisition of assets which as disclosed in Note 6 to the financial statements includes construction of buildings balance of Kshs.99,846,804 which further includes an amount of Kshs.8,132,892 for the construction of the Chambers for the County Assembly.

Review of construction records revealed that the County Assembly awarded the tender to a firm at a contract sum of Kshs.344,205,660 for a period of seventy (70) weeks. The Chambers was to be completed by 28 August, 2019 however, physical verification in September, 2024 revealed that the project was still in progress as four (4) years past the projected completion date with over 261 weeks after the contract period. The tender

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minutes, and correspondences with the contractor on the approval of the extension of the project were not provided for audit.

Further, the County Assembly did not provide evidence that the Project Management Committee and other stakeholders held site meetings to assess the implementation of the project and confirm the metrics during the engineers visit to give valuation certificates for payments contrary to Section 149(1)(a) and (b) of Public Finance Management Act, 2012 which provides that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized; and effective, efficient, economical and transparent.

In the circumstances, value for money from the expenditure of Kshs.8,132,892 incurred on the project could not be confirmed.

97. Irregular Payments on Subscriptions and Membership

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects other grants and transfers amounting to Kshs.5,500,000 in respect to membership fees, dues and subscriptions to organizations which include Kshs.500,000 and Kshs.5,000,000 made as annual subscriptions to Society of Clerks-At-The Table (SOCATT) and to County Assemblies Forum (CAF) respectively during the year under review. However, the SOCATT and CAF do not draw their mandates from the Constitution of Kenya or an Act of Parliament and payments to these organizations was not based on any law.

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

98. Irregular Payment of Rental Allowance to the Speaker

During the year under review, the County Assembly paid an amount of Kshs.900,000 to the Speaker in respect to rental allowance. However, the lease agreement between the landlord and the County Assembly was not provided for review. Further, no explanation was provided why the construction of the Speaker's residence was not complete and why the County Assembly kept on paying the rental allowance even when the deadline for leasing expired on 30 June, 2022 as stated in Salaries and Remuneration Commission Circular with Ref No.SRC/TS/CGOVT/3/61/ VOL.V(44) dated 14 August, 2020.

In the circumstances, Management was in breach of law.

99. Failure to Establish County Assembly Fund

As previously reported, the County Assembly Service Board had not established a County Assembly Fund. This was contrary to Section 34 of the County Assembly Service Act, 2017 which provides that there shall be established for each County, a fund to be known as the County Assembly Fund, whose purpose is to receive any grants, gifts, donations or bequests; monies from investments of the Board and such fees imposed or levies administered by the Board.

In the circumstances, Management was in breach of law.

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100. Staff Payment Outside Integrated Payroll and Personnel Database

As previously reported, Note 2 to the financial statements reflects an amount of Kshs.251,669,199 in respect of compensation of employees. This includes an amount of Kshs.131,073,312 paid to thirty-six (36) employees processed outside the IPPD. Management did not explain why it paid the employees outside the IPPD contrary to Regulations 19(1)(d) of the Public Finance Management (County Governments) Regulations, 2015 which requires a regular review of the adequacy and integrity of the entity's internal control and Management Information Systems including compliance with applicable laws.

In the circumstances, Management was in breach of law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

101. Failure to Establish an Audit Committee

As previously reported, during the year under review, Management had not established an Audit Committee. This was contrary to Section 167(1) of the Public Finance Management Act, 2012 which states that subject to paragraph (2) of this regulation, each County Government entity shall establish an Audit Committee.

Further, the Internal Audit Department had only one member of staff who was not able to effectively carry out all the internal audit functions. This was contrary to Regulation 155(2)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that an Accounting Officer shall ensure that the organizational structure of the Internal Audit Unit facilitates internal auditor with sufficient authority to promote independence and to ensure broad internal audit coverage, adequate consideration of audit reports.

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

102. Lack of Risk Management Policy and Disaster Recovery Plan

Review of records and information provided by Management revealed that the County Assembly lacked an approved Risk Management Policy and a Disaster Recovery Plan. Further, Management did not carry out risk assessment during the year under review.

In the circumstances, Management's preparedness from possible disaster recovery could not confirmed.

103. Lack of ICT Strategic Plan and ICT Steering Committee

Review of records and information provided by Management revealed that the County Assembly did not have ICT Strategic Plan, ICT Steering Committee and ICT Strategic Committee in place.

In the circumstances, the adequacy of the ICT governance structures to safeguard public resources could not be confirmed.

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104. Use of Personal Email Address for Official Government Business

Review of correspondences and an interview with the ICT staff revealed that most County staff were using personal e-mail addresses for official business despite being provided with official email addresses. This was contrary to the Head of Public Service Circular SH/ADM 23(1) dated 14 June, 2022 Government ICT standards, 2019 prescribing that all Ministries, Counties, Departments and Agencies shall acquire and ensure appropriate use and management of e-mail and instant messaging applications. This may expose the county data to attack while loosing the confidentiality and control of the ICT functionalities.

In the circumstances, internal controls and confidentiality of correspondences integrity data recipients could not be confirmed.

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COUNTY ASSEMBLY OF ISIOLO – NO.11

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

105. Irregularities in Compensation of Employees

105.1. Variance Between Payroll and Financial Statements

The statement of receipts and payments reflects compensation of employees' amount of Kshs.277,635,497 as disclosed in Note 2 to the financial statements. However, the balance differs with the gross payroll amount of Kshs.188,230,539 resulting in unexplained variances of Kshs.89,404,958.

105.2. Irregular Payment of Special Salary Allowances

Further, the balance includes an amount of Kshs.128,649,010 paid in respect of personal allowances paid as part of the salary. However, included in the allowances are special salary allowances amounting to Kshs.663,168 which were paid to members who were not part of the House leadership and not prescribed by the Salaries and Remuneration Commission.

105.3. Unsupported Responsibility Allowances

In addition, the balance includes responsibility allowances amounting to Kshs.4,492,000 paid to members of the County Assembly**.** However, Management did not provide list of officers in leadership positions, list of all Assembly Committees in place together with their respective members, attendance registers and minutes for various Committees' sittings.

In the circumstances, the accuracy and completeness of compensation of employees amounting to Kshs.277,635,497 could not be confirmed.

106. Misclassification of Expenditure

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.181,154,058 under use of goods and services which includes an amount of Kshs.1,400,000 paid in respect of printing, advertising and information supplies. However, review of documentation revealed that the payments related to fuel, oil and lubricants and not printing, advertisement, and supplies. Further, the payments were not supported with a fuel register, supplier statements, fuel consumption reconciliation statements, detail orders and motor vehicle daily work tickets.

Further, the statement reflects an amount of Kshs.1,100,000 classified as specialized materials. However, review of the supporting ledger revealed that the payments were for daily subsistence allowances paid to twenty-three (23) Members of the County Assembly for a three-day retreat to discuss the Isiolo County Finance Bill.

In the circumstances, the accuracy and completeness of the expenditures amounting to Kshs.2,500,000 could not be confirmed.

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107. Failure to Prepare Monthly Bank Reconciliation Statements

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.18,815 as disclosed in Note 8A to the financial statements which was held in three (3) bank accounts. However, no bank reconciliation statement was prepared for each bank account. Further, the operations account bank statements and the Board of Survey report for the period under review were not provided for audit review.

In the circumstances, the accuracy, existence and completeness of cash and cash equivalent of Kshs.18,815 could be confirmed.

Emphasis of Matter

108. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development reflects final receipts budget and actual amounts on comparable basis amount of Kshs.579,252,680 and Kshs.514,765,436 respectively, resulting to under-funding of Kshs.64,487,244 or 12% of the budget. However, the County Assembly exceeded an amount of Kshs.514,746,621 against actual receipts of Kshs.514,765,436 resulting in a difference of Kshs.18,815 only

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

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

109. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of human resource records revealed that the County Assembly had a staff workforce of two hundred (200), out of which one hundred and twenty-four (124) or 62% were from the dominant ethnic community. This was contrary to the requirements of Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one-third of its staff from the same ethnic community.

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

110. Failure to Effect the New NSSF Rates

The County Assembly did not adjust its monthly payrolls to comply with Sections 21(a) and(b)the National Social Security Fund (NSSF) Act, 2013 which requires NSSF pension contributions be raised to twelve per cent (12%) of the pensionable wages, with the employer contributing six per cent (6%) of the employee's monthly pensionable earnings and the employee contributing six per cent (6%) of the employee's pensionable earnings deducted from the employee's earnings. This was contrary to Regulation 22(2) of the Public Finance Management (County Governments) Regulations, 2015 that requires an

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Accounting Officer to comply with any tax, levy, duty, pension and commitments as may be provided for by legislation.

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

111. Un-remitted Statutory Deductions

Payroll data provided for audit review indicated that Management deducted monthly LAPFUND pension contributions for permanent staff and other County Assembly officers amounting to Kshs.15,637,311. However, remittances records and schedules in respect of employees' contribution to the pension scheme were not provided for audit. This was contrary to Regulation 22(2) of the Public Finance Management (County Governments) Regulations 2015 that requires an Accounting Officer to comply with any tax, levy, duty, pension and commitments as may be provided for by legislation.

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

112. Unsupported Manual Payment of Staff Salaries

The statement of receipts and payments and as disclosed to Note 2 to the financial statements reflects compensation of employees amount of Kshs.277,635,497. Analysis of payroll data revealed that the County Assembly paid an amount of Kshs.16,638,567 for twelve (12) months' salary for various Members of the County Assembly. However, the salaries were processed manually with no indication, whether statutory deductions were deducted and remitted. This was contrary to Regulation 22(2) of Public Finance Management (County Governments) Regulations, 2015 that requires an accounting officer to comply with any tax, levy, duty, pension and commitments as may be provided for by legislation. Further, it was not clear why the officers were not allocated their respective payroll numbers for ease of identification and computation of statutory dues.

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

113. Employment of Partisan Staff above the Approved Ceiling

During the year under review, the County Assembly's payroll had a total of two hundred (200) staff. Included in the list of staff were eighty-seven (87) ward support staff engaged on temporary terms who exceeded the recommended partisan staff in the County Assembly as recommended by the Commission of Revenue Allocation of fifty-one (51) resulting in excess of thirty-six (36) partisan staff. The excess was as result of the Ward offices hiring four (4) staff members instead of the required three (3) per Ward office. This contravened the Commission on Revenue Allocation Circular to County Assemblies on operationalization of ward offices that allows each Ward to employ a maximum of three (3) staff members.

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

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114. Irregular Payment of Subsistence Allowance

The statement of receipts and payments reflects use of goods and services amount of Kshs.181,154,058 as disclosed in Note 3 to the financial statements which includes an amount of Kshs.123,504,457 paid in respect to domestic travel and subsistence. Included in the amount, are payments totalling Kshs.4,425,800 incurred on retreats on two official occasions for the County Assembly's sectoral committee held at a conference venue which is approximately 10km from the County Assembly of Isiolo. This was contrary to Salaries Remuneration Commission circular dated 7 August, 2023 on payment of daily subsistence allowance which states that payment of daily subsistence allowance shall not be payable for location within a radius of 50km of the affected duty station of the respective officers. Further, attendance registers to confirm that the members participated in the activities for the days paid were not provided for audit review.

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

115. Stalled Construction of Debating Chamber and Restaurant

During the financial year 2019/2020, a contractor was awarded a contract for the construction of debating Chamber and restaurant for County Assembly of Isiolo at a contract sum of Kshs.314,000,768 and paid an amount to date of Kshs.70,438,026. The contract commenced on 10 July, 2019 with a completion date of 31 March, 2021. The contractor filed for an extension of the contract period from 31 March, 2021 to 22 June, 2022, an additional sixty-four (64) weeks through a letter dated 28 June, 2021.

The contractor further applied for an extension for another one hundred and thirty (130) weeks (two years and six months) citing delay in appointing sub-contractors vide a letter dated 27 November, 2023. Further, it was noted that the approval letter of the extension dated 11 July, 2024 was contradictory as it states the completion date after two years and six months' years to be 18 December, 2024 instead of 27 May, 2026.

At the time of audit, two hundred and sixty-four (264) weeks had lapsed yet there were no ongoing works as the contractor was not on site with only approximately 40% progress made.

In the circumstances, the value for money for the construction of debating chambers and restaurant could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

116. Lack of Information Technology Steering Committee

During the year under review, the County Assembly did not have an Information Technology Steering Committee. The function of the Information Technology Steering Committee is to carry out the IT strategy and perform the day-to-day activities. Its responsibilities include managing spending, architecture and engineering of IT solutions, allocation of resources, project management and giving feedback to the management. The audit team noted that County Assembly had gaps in information technology governance that might affect information technology management.

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In the circumstances, the effectiveness in implementing the IT strategies of the County Assembly could not be confirmed.

117. Lack of a Functional Audit Committee

The County Assembly had an Audit Committee in place whose term expired on 19 October, 2023. The Committee was however not re-appointed implying that the County Assembly had no Audit Committee in place for eight (8) months of the financial year under review. In the circumstances, the functions of the Audit Committee were not undertaken including holding meetings every three months and reviewing the performance of the Internal Audit Unit contrary to Regulation 172(1) of the Public Finance Management (County Governments) Regulations, 2015 which require the Committee to meet once in every three months.

In the circumstances, the effectiveness of the Audit Committee in discharging its mandate could not be confirmed.

118. Ineffective Internal Audit Arrangements

During the year under review, the Internal Audit Unit prepared a work plan for the year that was approved by the Audit Committee and the same was included in the County Assembly`s budget in line with Section 163(2) of Public Finance Management (County Governments) Regulations, 2015. However, there was no internal audit report for the year under review to adhere to the work plan.

In the circumstances, the effectiveness of the Internal Audit Unit to provide an independent appraisal of the County Assembly's operations, internal controls and risk management could not be ascertained.

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COUNTY ASSEMBLY OF MERU – NO.12

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

119. Unsupported Expenditure - Insurance Costs and Legal Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.442,722,997 which includes insurance costs of Kshs.42,319,375 as disclosed in Note 4 to the financial statements. Review of records revealed that the insurance costs of Kshs.42,319,375 includes an expenditure of Kshs.586,678 which was paid to an insurance company for an insurance cover for the building which houses the County Assembly offices and plenary. Examination of records indicated that the sum assured was Kshs.350,000,000. However, valuation report for the building was not provided for audit review. In addition, title deed as well as land registration number for the land on which the building stands, was also not provided for audit review.

Further, the balance includes other operating expenses amount of Kshs.63,628,942 which, as disclosed in Note 4 to the financial statements includes an expenditure of Kshs.3,000,000 paid to a private law firm for provision of legal services relating to impeachment of the Governor. However, documentary evidence to confirm that procurement of legal services relating to the impeachment of the Governor had been budgeted for was not provided for audit review.

In the circumstances, the accuracy, completeness and regularity of the expenditure could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

120. Payments of Salaries Outside the Integrated Payroll and Personnel Database System

Review of the payroll data provided revealed that three (3) Members of the County Assembly were paid salaries amounting to Kshs.8,679,025 through manual payrolls. This was contrary to Section 6.3 of the County Financial Accounting and Reporting Manual which requires that the salaries, allowances and/or arrears of County Assembly employees are to be processed through Integrated Personal Payroll Database (IPPD).

In the circumstances, Management was in breach of the County Financial Accounting and Reporting Manual.

121. Non-Compliance with Two-Thirds Gender Rule in Committees

Review of Committee membership for the financial year ended 30 June, 2024 revealed that out of ninety-eight (98) members serving in five (5) Committees, only 28 or 29% of the total membership were female. This contravenes Article 197(1) of the Constitution of

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Kenya 2010 which states that not more than two-third of any County Assembly or County Executive Committee shall be of the same gender.

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

122. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of employee records revealed that one hundred and fifty (150) employees representing 96% of the total workforce were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity of people of Kenya in the employment of staff and that no public establishment shall have more than one-third of its staff from the same ethnic community.

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

123. Non-Compliance with the One-Third of Basic Salary Rule

Review of the payrolls for the financial year ended 30 June, 2024 revealed that twenty-six (26) employees received net salaries which was below one-third of their basic pay. This was contrary to Section E.13(1)(2) of the County Public Service Human Resource Manual May, 2013 which states that to ensure that officers do not over-commit their salaries, no salary deduction will be affected beyond two-thirds (2/3) of an Officer's basic salary.

In the circumstances, Management was in breach of the County Public Service Human Resource Manual, 2013.

124. Late Remittance of Pay as You Earn (PAYE) Salary Deductions

Review of the remittances of statutory deductions revealed that the County Assembly remitted PAYE for May, 2024 and Housing Levy for July, 2023 amounts of Kshs.9,555,530 and Kshs.1,093,061, respectively after the stipulated timeliness. This was contrary to Section 37(1) of the Income Tax Act, 2012 which states that, an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis of Conclusion

125. Lack of Effective Audit Committee

The County Assembly had an Audit Committee in place. However, the Committee held only one meeting in the year under review contrary to Regulation 172(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the

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Committee to meet once in every three months. Further, the Committee did not carry out its mandate contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that each year the Audit Committee shall carry out annual review of the independence, performance and competency of the internal audit unit and comment on their effectiveness in the annual report.

In the circumstances, the County Assembly did not benefit from the assurance the Audit Committee would provide on their Internal Controls, risk management and governance.

126. Lack of an Approved Staff Establishment

During the year, the County Assembly did not have an approved staff establishment. As a result, it was not possible to confirm whether the County Assembly was operating within optimal staffing level required to deliver on its mandate.

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

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COUNTY ASSEMBLY OF THARAKA-NITHI – NO.13

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

127. Unsupported and Unaccounted for Imprest Issued to Officers

The statement of receipts and payments reflects use of goods and services amount of Kshs.252,065,540 which as disclosed in Note 3 to the financial statement includes an amount of Kshs.158,988,832 in respect to domestic travel and subsistence. Included in the latter amount is an expenditure of Kshs.6,611,700 advanced to various staff as imprests to undertake various activities. However, requisitions, proof of travel, signed attendance list and back to office reports were not provided for audit.

In the circumstances, the accuracy and completeness of domestic travel and subsistence totalling Kshs.6,611,700 could not be confirmed.

128. Unreconciled Summary of Fixed Assets

Annex 4 to the financial statements reflects the summary of fixed assets balance of Kshs.82,145,804 while the fixed assets register presented for audit reflected a balance of Kshs.13,777,390 resulting to an unreconciled variance of Kshs.68,368,414.

Further, all buildings inherited from the defunct local authority had not been revalued. The fixed assets register did not disclose the date of purchase for some of the assets, their respective costs and status. In addition, some of the assets were not tagged for ease of tracking and identification. This was contrary to Paragraph 27 of IPSAS 17 on property, plant and equipment which requires assets acquired through non-exchange transactions to be measured at fair value as at the date of acquisition.

In the circumstances the accuracy, valuation and completeness of the fixed assets balance of Kshs.82,145,804 could not be confirmed.

Emphasis of Matter

129. Late Exchequer Releases

The statement of receipts and payments reflects Exchequer releases amount of Kshs.517,106,065 as disclosed in Note 1 to the financial statements. Included in the amount is receipts of Kshs.160,366,366 relating to Exchequer amount released by the County Treasury to the County Assembly for Quarter 4, which further includes an amount of Kshs.4,810,000, released and received on 4 July, 2024. The Exchequer received on 4 July, 2024 was backdated in the records of the County Assembly as received on 30 June, 2024. This was contrary to the International Public Sector Accounting Standards (Cash Basis) reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which require that the accounts of the County Executive entities shall record transactions which take place during a financial year running from the 1 July to 30 June.

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The late Exchequer releases affected the County Assembly's ability to implement its planned programmes and led to underutilization of the budget, resulting in a negative impact on service delivery to the citizen.

130. Failure to Prioritize Payment of Pending Accounts Payables

Annex I to the financial statements reflects pending accounts payables balance of Kshs.97,637,853 out of which bills totalling Kshs.83,863,433 relates to financial year 2022/2023 and earlier years hence have been outstanding for a long period. This was contrary to Regulations 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires that debt service payments to be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

My opinion is not modified in the effects of this matter.

Other Matter

131. Unresolved Prior Year Audit Issues

In the report of the previous year, several issues were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Control, Risk Management and Governance. However, Management has not provided evidence of how the issues were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

132. Late Remittances of Statutory Dues and Deductions

Review of the payment vouchers revealed that deductions in respect to Pay As You Earn (PAYE), National Social Security Fund (NSSF), National Hospital Insurance Fund (NHIF), pensions deductions and Housing Levy Fund totalling Kshs.7,217,768 and Kshs.7,317,885 for deduction made for the months of May and June were paid on 30 July, 2024 and 15 August, 2024 respectively. This was contrary to Section 19(4) of the Employment Act, 2007 which provides that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) should pay the amount so deducted in accordance with the time period and other requirements specified in the law remittance / deductions.

In the circumstances, the delay in remission of statutory deductions and dues may attract penalties and interest from the receiving institutions and deny the staff of County Assembly respective services and benefits.

133. Failure to Comply with Fiscal Responsibility Principles on Wages and Benefits

The statement of receipts and payments reflects compensation of employees' amount of Kshs.203,078,900 as disclosed in Note 2 to the financial statements. However, the total

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revenue received in the year under review amounted to Kshs.517,106,065. The wage bill was at 39% contrary to Regulation 25(1)(b) of the Public Finance Management Act (County Governments) Regulations, 2015 which states state that in addition to fiscal responsibility principles set out in Section 107 of the Act, shall not exceed thirty five percent (35%) of the county government total revenue.

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

134. Employees Earning Below a Third of Basic Salary

Review of the County Assembly's monthly payrolls revealed that ten (10) officers had their net salaries falling below a third of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007, which states that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

135. Non-Compliance with the Law on Staff Ethnic Composition

Review of payroll revealed that twenty-three (23) or 79% out of the twenty-nine (29) of the County Assembly staff on Management level (Job groups N – T) were from the dominant ethnic group in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 states that no public establishment shall have more than one third of its staff from the same ethnic community.

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

136. Irregularities in Procurement of Legal Services

Annex I to the financial statement reflects pending accounts payables balance of Kshs.97,637,853 which includes legal fees totalling Kshs.27,883,244. However, review of documents revealed that the County Assembly engaged private legal consultants instead County's internal legal counsel whose key function is to represent the County Government in civil disputes and matters of public interest. In addition, no evidence of approval to engage the services of private legal consultants was provided for audit review.

In the circumstances, value for money and effectiveness in use of public funds could not be confirmed.

137. Delayed Construction of Speaker's Official Residence

The County Assembly awarded contract for construction of the Speaker's official residence to a contractor at a contract sum of Kshs.33,709,617 with commencement date of 20 May, 2021 for contract period of two (2) years with the completion date earmarked to be on 20 May, 2023. However, as previously reported, the Project stalled at (56.7%) completion with no ongoing works and contractor out of site. Further, contract has been extended twice with first extension to 20 May, 2024 and second extension for one (1) to

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20 May, 2025 with no valid reasons. This was contrary to the Salaries and Remuneration Commission circular dated 24 October, 2016 which provided guidelines on prioritization of funds for construction of Speaker's official residence in the year 2018/2019 budget cycle and in any case not later than 30 June, 2022.

In the circumstances, the intended benefit and value for money of the Project may not be realized as further delay may increase the project cost due to escalating prices of materials and services.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

138. Weak Internal Audit and Audit Committee

Review of records in respect to Internal Audit Department revealed that the Internal Audit Committee was not in place and Management has not made any effort to establish the same as part of governance and oversight activities. Further, although the Internal Audit Department was in existence, there were no approved Internal Audit Charter, Audit Plan and Audit Reports on areas reviewed by the internal audit during the year. Further, Management did not provide for audit any quarterly or annual internal audit reports and no follow-up on the implementation of the recommendations of internal and external auditors.

In the circumstances, the assurance on effectiveness and efficiency of the internal controls at the County Assembly could not be confirmed.

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COUNTY ASSEMBLY OF EMBU – NO.14

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

139. Unconfirmed Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.25,025,510 being bank balances held in six (6) bank accounts as disclosed in Note 8 to the financial statements. However, bank account numbers reconciliation statements for three (3) bank accounts with balances totalling Kshs.24,864,881 were not disclosed.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.25,025,510 could not be confirmed.

140. Unsupported Fuel, Oil and Lubricants

The statement of receipts and payments reflects use of goods and services amount of Kshs.233,940,799 which includes fuel, oil and lubricants amount of Kshs.2,418,330 as disclosed in Note 3 to the financial statements. Review of fuel records revealed that the County Assembly paid an amount of Kshs.500,000 to a fuel service station for supply and delivery of fuel meant for a standby generator. However, fuel register reconciling the fuel drawn was not provided for audit. It was therefore not possible to confirm the quantity of fuel drawn and utilized. In addition, review of motor vehicle work tickets, delivery notes and fuel registers revealed that fuel valued at an amount of Kshs.84,713 was recorded in fuel registers but, not accounted for in motor vehicle work tickets.

In the circumstances, the accuracy and completeness of fuel, oil and lubricants amount of Kshs.2,418,330 could not be confirmed.

Emphasis of Matter

141. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (Recurrent and Development combined) reflects final receipts budget and actual on a comparable basis of Kshs.654,021,950 and Kshs.579,019,269, respectively, resulting in under-funding of Kshs.75,002,681 or 12% of the budget. Similarly, the County Assembly spent an amount of Kshs.579,018,829 against actual receipts of Kshs.579,019,269, resulting in an under-utilization of Kshs.440 of the actual amounts.

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

My opinion is not modified in respect of this matter.

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Other Matter

142. Unresolved Prior Yead Audit Issues

In the report of the previous year, several issues were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Control, Risk Management and Governance. However, Management has not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

143. Late Remittance of Statutory Deductions

The statement of receipts and payments reflects social security benefits amount of Kshs.39,393,477 which, as disclosed in Note 6 to the financial statements includes Government pension and retirement benefits amount of Kshs.35,729,560. However, review of retirement benefit records revealed that Local Authority Provident Fund and Local Authority Pension Trust Fund benefits amounting to Kshs.11,864,777 were remitted late while deductions totalling Kshs.15,804,580 had not been remitted as at 30 June, 2024. This was contrary to Section 53A(1) of the Retirement Benefits Act, 1997 Revised 2017 which states that where an employer, having with the agreement of an employee who is a member of a scheme, made a deduction from the employee's emoluments for remittance to the scheme, fails to remit the deduction within fifteen days of the deduction, the scheme may, after giving such employer not less than seven days' notice, institute proceedings for the recovery of the deduction.

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

144. Non-Compliance with the Law on Staff Ethnic Composition

Review of payroll provided for audit revealed that one hundred and eight (108) or 49% out of the two hundred and twenty-one (221) County Assembly staff were from the dominant ethnic community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

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

145. Irregular Payment of Subscriptions

Review of subscription records provided for audit revealed that an amount of Kshs.750,000 was paid to County Assembly Forum and Society of Clerks at the Table (SOCATT). However, there is no law provided to support the regularity of this payment contrary to Section 38(1) of Intergovernmental Relations Act, 2012 which states that the Cabinet Secretary may, in consultation with the Summit, make regulations for the better carrying out of the provisions of this Act, (2) Without prejudice to the generality of Subsection(1), the regulations may provide the procedures for (a) the transfer or delegation of functions to either level of government (b) public participation under this Act (c) dispute resolution mechanisms under this Act (d) appointing the members of the Technical Committee under Section 11 and (e) constituting intergovernmental forums.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

146. Lack of an Audit Committee

Review of internal audit records revealed that the Audit Committee was not in place and Management had not made any effort to establish the same as part of governance and oversight activities. Although the Internal Audit Department was in existence, there were no approved Internal Audit Charter, Audit Plan and audit reports on areas reviewed by the internal audit during the year under review. Further, Management did not provide for audit any quarterly or annual internal audit reports and no follow-up on the implementation of the recommendations of internal and external auditors was provided for audit.

In the circumstances, reasonable assurance on the risk management, control and governance could not be confirmed.

147. Lack of Disaster Recovery Plan

Review of disaster recovery and ICT plans of the County Assembly revealed that Management had not developed an approved Disaster Recovery Plan therefore, the Assembly may not be able to recover if a disaster occurs. Further, there was no approved Information Communication Technology (ICT) Strategic Plan, back up and retention strategy which could result in ICT governance, as part of enterprise governance, not being adequate. In addition, no evidence was provided for audit to show that the entity has in place a training program to build ICT capacity which could result in ICT function failing to meet operations as well as creating reliance on key staff members.

In the circumstances, the County Assembly's recovery from unexpected disasters and the derived benefits from investments in IT infrastructure could not be confirmed.

148. Lack of Risk Management Policy

Review of policy documents of the County Assembly revealed that Management had not developed a Risk Management Policy or documented strategies for identifying risks that may have potential effects on the operations of the County Assembly. This was contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism; and (b) the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, identification of risks that may affect the operations of the County Assembly and the mitigation measures to be part in a timely manner could not be confirmed.

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COUNTY ASSEMBLY OF KITUI – NO.15

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

149. There were no material issues noted during the audit of the financial statements.

Emphasis of Matter

150. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: Recurrent and Development reflects final receipts budget and actual on comparable basis of Kshs.1,409,872,841 and Kshs.1,024,015,986 respectively resulting to an under-funding of Kshs.385,856,855 or approximately 27% of the budget. However, Management spent an amount of Kshs.1,022,961,295 out of actual receipts of Kshs.1,024,015,986 resulting to under-utilization of Kshs.1,324,691 of the actual receipts.

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

151. Pending Accounts Payables

Annex 1 to the financial statements on analysis of pending accounts payable reflects pending payables balance of Kshs.17,742,283 that were not settled as at 30 June, 2024. However, no explanation was given for failure to settle the bills.

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

152. Late Exchequer Releases

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects transfers from the County Revenue Fund (CRF) amounting to Kshs.1,024,015,986. Included in the amount are late exchequer releases amounting to Kshs.88,035,515 and Kshs.26,200,000 received on 02 July, 2024 and 05 July, 2024 respectively, all totalling Kshs.114,235,515 received after the cut-off period of 30 June, 2024.

In addition, payments amounting to Kshs.31,798,516 made during the month of July 2024 were included in the expenditure for the year under review.

Late Exchequer release may affect the planned activities and impact negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

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Other Matter

153. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. However, Management had not resolved all the prior year matters did or provided satisfactory explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

154. Non-Adherence to Fiscal Responsibility

The statements of receipts and payments and as disclosed in Note 4 to the financial statements reflects an expenditure of Kshs.394,270,338 on compensation of employees representing approximately 39% of the total receipts of Kshs.1,024,015,986. This was contrary to the provisions of Regulations 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the expenditure does not exceed the legal threshold of 35%.

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

155. Non-Compliance with the National Cohesion and Integration Act, 2008

During the year under review, the total number of employees of the County Assembly was one hundred and thirty-eight (138) out of whom one hundred and thirty-three (133) or approximately 96% of the total number were from the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community”.

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

156. Irregular Payment to County Assembly Forums

The statement of receipts and payments reflects use of goods and services amounting to Kshs.529,171,208, which as disclosed in Note 5 to the financial statements includes other operating expenses totalling Kshs.41,939,694. Included in the expenditure is an amount of Kshs.5,750,000 in respect of subscriptions paid to County Assemblies Forums and Society of Clerks-At-The Table. However, these entities are not established in law and therefore the payment amounting to Kshs.5,750,000 was irregular. This was contrary to Section 149(1)(a) of the Public Finance Management Act, 2012 which states that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized.

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

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Basis for Conclusion

157. Lack of Risk Management Policy and Strategy

Review of internal controls revealed that the County Assembly did not have a risk Management Policy, strategies, and Risk Register and there was also no evidence to confirm that formal risk assessment was undertaken. This was contrary to the provisions of Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and to develop a system of risk management and internal controls that build robust business operations.

In the circumstances, the effectiveness of the risk management measures put in place could not be confirmed.

158. Lack of a Strategic Plan

During the year under review, the County Assembly operated without a strategic plan since the strategic plan for the year 2018-2023 had expired. This was contrary to Section 149 (2) (g) of the Public Finance Management Act, 2012 which states that in carrying out a responsibility imposed by subsection (1), an Accounting Officer shall, in respect of the entity concerned, prepare a strategic plan for the entity in conformity with the medium-term fiscal framework financial objectives of the County Government.

In the circumstances, the County Assembly lacks a blue print to guide its operation and direction to achieve its strategic matters.

159. Lack of Disaster Recovery and Business Continuity Plan

During the year under review, the County Assembly operated without a Disaster Recovery and Business Continuity Plan. This was contrary to the provisions of Section 99 of the Public Finance Management Act, 2012 which stipulates that the role of a disaster recovery plan is to secure the County Government's ability to meet its obligations to provide basic services or its financial commitments, identify the financial problems and be designed to place the County Government in a sound and sustainable financial condition as quickly as possible in case of a disaster.

In the circumstances, the County Assembly may be exposed to loss of critical information in case of a disaster.

160. Lack of Information Communication Technology Security Policy

Review of the County Assembly's Information Communication Technology (ICT) environment revealed that the County Assembly did not have an approved ICT policy for governance and management of its ICT resources. In addition, there was no ICT steering Committee in place to assist in the development of ICT Policy framework to enable the County Assembly realize long-term ICT strategic goals. Lack of an approved ICT Policy may result in an unclear direction regarding maintenance of information security across

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the organization and safeguarding the County Assembly`s ICT assets. Further, without a sound and approved framework, users do not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data confidentiality, integrity and availability.

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

161. Unconfirmed Value of Assets

Annex 4 to the financial statements on summary of non-current asset register, reflects that the County Assembly had assets cumulatively valued at Kshs.687,596,633. The assets include those acquired and those inherited from the defunct Local Authorities and the County Government of Kitui. However, the handing over and ownership documents were not provided for audit review. Further, the asset register included buildings and structures and transport equipment valued at Kshs.561,110,705 and Kshs.60,505,699 respectively whose ownership and valuation documents were also not provided for audit review. In addition, Management did not provide a breakdown of the valuation amounts and the basis for their inclusion.

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

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COUNTY ASSEMBLY OF MACHAKOS – NO.16

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

162. Variances Between the Financial Statements and Integrated Financial Management Information System Amounts

Review of the Integrated Financial Management System (IFMIS) system payment details revealed that the County Assembly made payments totalling Kshs.1,194,414,788 which differed with the statement of receipts and payments amount of Kshs.1,064,803,037 resulting in unexplained and unreconciled variance of Kshs.129,611,751.

In the circumstances, the accuracy and completeness of payments amounting to Kshs.1,064,803,037 could not be confirmed.

Emphasis of Matter

163. Pending Accounts Payables

Annex 1 to the financial statements on analysis of pending accounts payable reflects pending bills balance of Kshs.120,826,235 which were not settled as at 30 June, 2024. However, no explanation was given for the failure to settle the pending bills. Failure to settle pending bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form the first charge.

164. Late Exchequer Releases

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects transfers from County Revenue Fund amount of Kshs.1,066,128,487. Review of receipts records revealed that funds amounting to Kshs.19,724,607 were received in July, 2024. Late Exchequer releases affected implementation of the budgeted programs and activities to the detriment of services delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

165. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, Management did not resolve all the prior year matters or provided satisfactory explanation for the delay in resolving the issues.

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Basis for Conclusion

166. Non-Compliance with the One-Third of Basic Salary Rule

Review of the Integrated Payroll and Personnel Database (IPPD) payroll data revealed that thirty (30) employees earned net salary which was less than one-third (1/3) of their basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) - Human Resource Policies and Procedures Manual for the Public Service 2016, which stipulates that a public officer shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries. This may expose the staff to pecuniary embarrassment.

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

167. Non-Compliance with Law on Ethnic Composition

Review of the County Assembly staff records revealed that out of one hundred and ninety-seven (197) employees of the County Assembly, one hundred and eighty-three (183) or approximately 93 % of the total number were from the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community.

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

168. Delay in Completion of Mutituni Ward Offices

The County Assembly entered into a contract for the construction of Mutituni ward offices and associated works at a contract sum of Kshs.3,195,951. The project commenced on 8 October, 2021 and was scheduled to be completed on 10 December, 2022. According to interim payment certificate No 1 dated 11 April 2024 and inspection report of 18 June, 2024, the value of work done was Kshs.1,195,217 representing approximately 37% of the total works which the Assembly paid to the Contractor on 9 July, 2024.The completion date was extended to 19 May, 2024 which had since lapsed and no further extension had been approved as at the time of audit in September, 2024 raising doubt on the status and completion of the contract and the project.

In the circumstances, value for money on the payments totalling Kshs.1,195,217 could not be confirmed.

169. Irregular Payments to Contractors

Review of the project documents revealed that an amount of Kshs.19,674,198 was paid to contractors for construction of ward offices, pit latrines and associated electrical works during the year under review. However, review of procurement records revealed that the contract agreements between the County Assembly and the contractors were signed after the expiry of tender validity period. This was contrary to Section 135 (3 and 7) of Public

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Procurement Asset Disposal Act, 2015 which stipulates that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

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

170. Irregular Payments to Merchants Without Contracts

The statement of receipts and payments reflects use of goods and services amount of Kshs.412,827,977 which as disclosed in Note 5 to the financial statements includes fuel, oil and lubricants payments totalling Kshs.8,053,418. However, the County Assembly did not provide evidence of award of contracts or availability of a fuel framework agreement with the respective merchants who were also not in the prequalified list of suppliers. This was contrary to Section 114(1) of the Public Procurement Asset Disposal Act , 2015 which stipulates that a procuring entity may enter into a framework agreement open tender if- (a) the procurement value is within the thresholds prescribed under Regulations to this Act; (b) the required quantity of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement; and (c) a minimum of seven alternative vendors are included for each category.

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

171. Irregular Payments for Subscriptions and Membership

The statement of receipts and payments reflects use of goods and services amount of Kshs.412,827,977 and as disclosed in Note 5 to the financial statements which includes other operating expenses totalling Kshs.26,197,843. Included in the amount is Kshs.2,000,000 in respect to subscriptions paid to County Assemblies Forums and Society of Clerks-at-The Table (SOCATT). However, establishment by law, hence the regularity of the payments could not be confirmed.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

172. Unsupported Non-Current Assets

Annex 4 to the financial statements on summary of non-current asset register reflects that the County Assembly had assets cumulatively valued at Kshs.961,803,002. The assets include those acquired and those inherited from the defunct Local Authorities and Machakos County Government. However, the handing over and ownership documents were not provided for audit. In addition, the asset register includes land, buildings, and transport equipment valued at Kshs.60,000,000, Kshs.604,266,628 and Kshs.76,432,684 respectively whose ownership and valuation documents were not provided for audit.

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

173. Lack of a Functional and Effective Audit Committee

During the year under review, the Audit Committee of the County Assembly was not fully constituted as one of the committee members left on 17 November, 2021 and had not been replaced. This casts doubt on the prudent operations of the Audit Committee for the year under review. This was contrary to Regulation 167(4) of the Public Finance Management (County Governments) Regulations, 2015 which states that there shall be a minimum of three members, excluding a person who shall be appointed to represent the County Treasury in each audit committee and a maximum of five. Management therefore did not get an independent oversight and assurance on effectiveness of internal controls by the Audit Committee.

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

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COUNTY ASSEMBLY OF MAKUENI – NO.17

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

174. Unsupported Legal Expenses

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.448,356,798 and as disclosed in Note 3 to the financial statements includes other operating expenses amounting to Kshs.137,885,533. Included in the other operating expenses is an amount of Kshs.4,375,000 paid to a legal firm which was not supported with documents to show how the legal fees was determined.

In the circumstances, the accuracy and regularity of legal expenses amounting to Kshs.4,375,000 could not be confirmed.

175. Failure to Observe end of Year Cut-Off Procedures

The statement of receipts and payments reflects an amount of Kshs.868,057,775 and Kshs.866,413,369 in respect of total receipts and payments respectively. Review of revenue and expenditure records indicated that Exchequer receipts totalling Kshs.137,098,324 were received in the month of June and July 2024. In addition, an amount of Kshs.56,011,901 was paid between 1 July and 12 July, 2024 for various purposes, which was outside the year under review.

In the circumstances, the accuracy and completeness of the receipts and payments could not be confirmed.

Emphasis of Matter

176. Pending Accounts Payables

Annex 1 to the financial statements on analysis of pending accounts payable reflects a balance of Kshs.82,087,023. Review of payment records for the year revealed that no payment had been made to suppliers during the year under review.

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

My opinion is not modified in respect of this matter.

Other Matter

177. Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management did not resolve the issues as at 30 June, 2024.

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Basis for Conclusion

178. Irregular Award of Contracts to Suppliers

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services amounting to Kshs.448,356,798 which includes an amount of Kshs.71,730,040 in respect of domestic travel and subsistence. Included in domestic travel and subsistence is an amount of Kshs.17,045,975 incurred on hiring of conference, for Members of County Assembly and staff in Nairobi, Machakos and Mombasa Counties. This was contrary to Regulation 151(1), (2) and (3) of the Public Procurement and Asset Disposal Regulations, 2020 which states that for purposes of Sections 157(4)(d) of the Act Counties, Sub Counties and constituencies shall be regions where exclusive preference and reservations schemes shall apply where citizen contractors are based and operate and shall be given exclusive preference when participating in procurements using funds from the County government or any devolved Fund except where it is established that local capacity is not available.
In addition, the officers who participated in the activities were paid a total of Kshs.48,073,200 for domestic travel and subsistence allowances.

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

179. Irregular Payments During Oversight and Public Participation

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.448,356,798 in respect of use of goods and services which includes other operating expenses amounting to Kshs.137,885,533. Included in other operating expenses an amounts of Kshs.12,782,029 and Kshs.32,774,350 incurred on oversight and public participation activities respectfully. However, review of sampled payment vouchers revealed that Members of County Assembly (MCAs) were paid an amount of Kshs.50,000 and Kshs.70,000 each for every facilitation on public participation and oversight activities undertaken respectively. This is contrary to the rates specified by Salaries and Remuneration Commission in the Gazette notice on Remuneration and Benefits for State Officers dated 9 August, 2022. In addition, each participating MCA was paid transport facilitation allowance of Kshs.6,000 or Kshs.8,000 per day regardless of the distance travelled.

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

180. Long Outstanding Third-Party Deposits and Retentions

The statement of financial assets and liabilities reflects third party deposits and retentions balance of Kshs.8,898,304 as disclosed in Note 9 to the financial statements. Analysis of data provided for accounts payables as at 30 June, 2024 revealed that an amount of Kshs.7,456,876 or approximately 84% of the payables relate to retention monies for various contractors which had been outstanding for over two (2) years. This is contrary to Regulation 41(2) and (3) of the Public Finance Management (County Governments) Regulations, 2015 which provides that debt service payments shall be a first charge on

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the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

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

181. Non-Compliance with Staff Ethnic Diversity Composition

The County Assembly had nine (9) vacant posts at entry level during the year under review which were all filled by candidates from the dominant ethnic community. This was contrary to Section 65(1)(e) of the County Government Act, 2012 which states that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

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

182. Non-Compliance with One-Third Basic Salary Rule

Twenty-two (22) Members of County Assembly (MCAs) and seven (7) members of staff received a net salary which was less than one-third of their basic salary. 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 shall not exceed two-third (2/3) of such wages.

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

183. Irregular Procurements in Ward Offices

Ward Offices made procurements totalling Kshs.54,987,616 using low-value procurement method contrary to Section 107(a) of the Public Procurement and Asset Disposal Act, 2015 which provides that items procured on low value method are those items that are not procured on a regular or frequent basis and are not covered in the framework agreement. In addition, the expenditure was not supported by Electronic Tax Register (ETR) receipts signed by the officer undertaking the cash purchases.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

184. Use of Manual Payroll

Salaries of the County Assembly staff were processed using two (2) payroll systems; a manual (Excel format) payroll system and the Integrated Payroll and Personnel Database (IPPD) system. Out of the total compensation of employees amounting to Kshs.371,730,253, an amount of Kshs.11,328,263 was paid through the manual payroll system. The use of manual system involves manual calculation of deductions to arrive at net monthly pay, and constant updates of data, which makes it prone to human errors and manipulation.

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

185. Non-Establishment of an Audit Committee

Review of operations and governance structures of the County Assembly revealed that the County Assembly operated without an Audit Committee during the year under review, as the previous Committee members' tenure had expired on 1 January, 2021. In addition, the internal auditor operated without an Approved Work Plan and there was no follow up on the implementation of the recommendations from internal and external auditors. This was contrary to Section 155(5) of the Public Finance Management Act, 2012 which provides for establishment of an audit committee.

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

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COUNTY ASSEMBLY OF NYANDARUA – NO.18

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

186. Unsupported Personnel Allowances

The statement of receipts and payments and as disclosed in Note 4 to financial statements reflects compensation of employees amounting to Kshs.354,963,582 which includes personnel allowance paid as reimbursement (mileage allowance) totalling Kshs.22,642,257. This balance differed with mileage schedule provided totalling Kshs.17,207,436 resulting to un-reconciled and unexplained variance of Kshs.5,434,821. Further, the supporting documents including payment vouchers, copies of motor vehicle logbooks or lease agreements as proof of ownership of motor vehicles used by the respective Members or a report from the transport section of the State Department of Public Works to confirm the distance between the Members of the County Assembly (MCAs) home and the Assembly's chambers was not provided for audit verification.

In the circumstances, the accuracy and completeness of the personnel allowance paid as reimbursement of Kshs.22,642,257 could not be confirmed.

187. Unsupported Payment for Foreign Travel

The County Assembly incurred expenditure of Kshs.16,503,698 in respect of foreign travel and subsistence allowance. However, the amount was not supported by an activity program, signed attendance register and back to office report.

In the circumstances, the accuracy and occurrence of expenditure of Kshs.16,503,698 in respect of foreign travel and subsistence allowance could not be confirmed.

188. Variance in Prior Year Pending Accounts Payable

Review of other disclosures to the financial statements and as reflected in Note 1 on pending accounts payable reflects a balance brought forward of Kshs.98,373,853 which differs with the previous year audited financial statements balance carried forward for pending bills of Kshs.108,076,305, resulting to unreconciled and unexplained variance of Kshs.10,076,305.

In the circumstances, the accuracy and completeness of opening pending bills balance of Kshs.98,373,853 could not be confirmed.

Emphasis of Matter

189. Long Outstanding Pending Bills

The County Assembly had accumulated pending bills amounting to Kshs.98,017,728 as at 30 June, 2024, out of which an amount of Kshs.71,499,930 were long outstanding bills which ought to have been paid as first charge in the approved budget of the subsequent financial years when they fell due. This was contrary to Regulation 139 of Public

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Procurement Asset and Disposal Regulations, 2020 and The National Treasury Circular No.10/2020 which requires Accounting Officers to ensure pending bills are treated as first charge on the financial year approved budget.

My opinion is not modified in respect of this matter.

Other Matter

190. Unresolved Prior Year Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

191. Irregular Payments to Society of Clerks At-the-Table

The County Assembly paid an amount of Kshs.1,044,000 on annual subscription fees to Society of Clerks At-The-Table (SOCATT). However, the organization is not established by law hence regularity of the subscription could not be confirmed. This was contrary to Section 149(1) of Public Finance Management Act, 2012 which provides that the accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorised.

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

192. Delayed Exchequer Receipts and Failure to Observe Cut - Off Period

The statement of receipts and payments reflects total receipts of Kshs.925,914,901. However, included in the amount is Kshs.16,782,092 comprising of recurrent receipts of Kshs.11,657,954 and development receipts of Kshs.5,124,138 that were received after the financial year cut-off date of 30 June, 2024. This was contrary to Regulation 97(1)(4) of the Public Finance Management (County Governments) Regulations, 2015 which provides that accounts of the county government entities shall record transactions which take place during a financial year running from 1 July to 30 June.

In the circumstances, service delivery may have been affected by the late receipt of Exchequer.

193. Non-Compliance with SRC Guidelines on County Assembly Speaker's Residence

The Salaries and Remuneration Commission (SRC) Circular No.SRC/TS/CoG/6/61/48/ Vol.II(6A) on housing benefits for Governors, Deputy Governors and County Speakers provides that the Speaker's residence should be built on a 1 acre land owned by county.

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However, the County Assembly purchased land of approximately 1.7 ha or 3.9 acres from a private individual at Kshs.10,000,000.

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

194. Irregular Payment of House Allowances to Members of Staff

The County Assembly made payments amounting to Kshs.2,481,200 to thirty-two (32) employees in respect of house allowance above the rates provided by the Salaries and Remuneration Commission while twelve (12) employees were underpaid by Kshs.144,000 in respect of house allowances contrary to SRC circular Ref. No:SRC/TS/MDP/3/1/2(2) dated 11 August, 2015 which provides for the applicable rates for house allowances for public officers.

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

195. Direct Procurement of Office Space

The County Assembly incurred an expenditure amounting to Kshs.3,000,000 during the year under review on rents for Ward offices. However, the services were not competitively sourced and no market survey was conducted to establish the prevailing market rates. This was contrary to Section 103(2) of the Public Procurement and Asset Disposal Act, 2015, which provides guidelines on circumstances under which direct procurement can be used.

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

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

Review of the payroll for the period under review revealed that twenty-six (26) employees earned net salaries which were less than one-third of their respective basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

197. Irregularities in the Construction of a Boundary Wall for the Speaker's Residence

Projects inspection on Speaker's residence carried out in the month of September, 2024 revealed that even though the house was completed and the certificate of practical completion issued, the County Assembly paid an amount of Kshs.19,774,001 for the construction of a boundary wall around the Speaker's house. However, it was noted that the septic tank was already full, clogged and could not be utilized, the guard house had already started cracking, deep trenches had already developed around the wall and soil excavated was still all over the boundary wall. Thus, the work was incomplete and the contractor was not on site.

In the circumstances, the value for money on the expenditure amounting to Kshs.19,774,001 could not be confirmed.

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Basis for Conclusion

198. Failure to Maintain Updated Fixed Assets Register

The County Assembly did not maintain an accurate and updated fixed assets register containing key information including date of acquisition, type of asset, supplier name, value, custodian, identification codes and location of the assets. In addition, some assets', such as land, and water towers had been omitted from the assets register.

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

199. Lack of an Approved Fraud Management Policy

The County Assembly did not have fraud management policy contrary to Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires an Accounting Officer to ensure that the County Government entity develops risk Management strategies, which include fraud prevention mechanism; and a system of risk Management and internal control that builds robust business operations.

In the circumstances, the existence of effective risk management in the County Assembly could not be confirmed.

200. Lack of Business Continuity and Disaster Recovery Plans

Management did not establish Business Continuity and Disaster Recovery Plans to ensure smooth running of the County Assembly's operations in the event of a disaster or unforeseen occurrence.

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

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

201. Misclassification of Salary Expenditure

The statement of receipts and payments and Note 5 to the financial statements reflects use of goods and services amount of Kshs.408,147,074 which includes an amount of Kshs.51,523,292 in respect of hospitality supplies and services which further includes an amount of Kshs.12,040,600 explained as salary payments wrongly charged to the hospitality account. No explanation was provided for charging the salary to hospitality vote.

In the circumstances, the accuracy and completeness of hospitality balance of Kshs.12,040,600 reported in the financial statement could not confirmed.

202. Non-Compliance with Cut-Off Date

The statement of receipts and payments reflect total receipts of Kshs.792,988,260 which included an amount of Kshs.54,107,457 comprising of recurrent receipts totalling Kshs.42,189,623 and development receipts amount of Kshs.11,917,834 that were received after the financial year cut-off date of 30 June, 2024. This was contrary to Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that accounts of the County Government entities shall record transactions which take place during a financial year running from 1 July to 30 June.

In the circumstances, the accuracy and completeness of receipt amount of Kshs.54,107,457 could not be confirmed.

203. Unsupported Payment of Arrears

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees amount of Kshs.247,402,349. Included in the amount is payment of arrears amounting to Kshs.912,179 explained as sitting allowance for Members of County Assembly for the month of June, 2023 which was not disclosed as pending accounts payable in the prior year audited financial statements.

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.912,179 could not be confirmed.

Other Matter

204. Unresolved Prior Year Audit Matters

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

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Basis for Conclusion

205. Irregularities in Compensation of Employees and Other Staff Matters

205.1. Payments of Salaries Outside Integrated Payroll and Personnel Database

The statements of receipts and payments and as disclosed in Note 4 to financial statements reflects compensation of employee amount of Kshs.247,402,349 which include an amount of Kshs.32,732,789 paid outside the Integrated Payroll and Personnel Database (IPPD) systems. This was contrary to The National Treasury Circular No.13/2019 which requires the allocation of personnel emoluments be supported by Integrated Payroll and Personnel Database (IPPD) systems.

205.2. Transfer of Tax Liability

The statement of receipts and payments and as disclosed in Note 4 to financial statements reflects compensation of employee amount of Kshs.247,402,349 which includes personnel allowances provided in kind totalling to Kshs.5,855,985 which further includes Kshs.2,269,978 paid to Kenya Revenue Authority to settle an outstanding tax liability which relates to non-cash benefits in form of motor vehicles provided to the employees by the County Assembly. However, the payments amounting to Kshs.2,269,978 to KRA by the Assembly was irregular because the burden of payments of the tax was shifted from the employee to employer contrary to Section 5(2B) of Income Tax Act CAP 470 2023.

Further, although an amount of Kshs.5,855,985 outstanding tax liabilities had been outstanding for long, no disclosure was made as pending accounts payable or a contingent liability in the prior year audited financial statements.

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

206. Non-Compliance with Law on Staff Ethnic Diversity

Review of Human Resource records revealed that during the year under review, the County Assembly had sixty-two (62) members of staff out of whom, fifty-seven (57) or 92% were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

In the circumstances, Management was in breach of law.

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

Review of the monthly payroll records revealed that thirty-two (32) employees' salary deductions exceeded the two-third (2/3) of the basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such

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wages. No explanation was provided by Management for enabling the employee earnings go below the statutory minimum.

In the circumstances, management was in breach of law.

208. Irregular Promotion of Staff

During the year under review, nine (9) staff of the County Assembly were promoted to various grades without being subjected to any interviews to assess their suitability. This was contrary to Article 232(g) of the Constitution of Kenya, 2010 which requires fair competition and merit as the basis of appointments and promotions.

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

209. Subscription Fees Paid Without a Guiding Policy

The statement of receipts and payments and as disclosed in Note 5 to financial statements, reflects use of goods and services amount of Kshs.408,147,074 which includes other operating expenses totalling Kshs.52,364,846 which further includes an amount of Kshs.2,000,000 and Kshs.750,000 paid to the County Assemblies Forum (CAF) and the Society of Clerks At-The-Table (SOCATT) respectively without any enabling legislation supporting the contributions to the two organisations.

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

210. Irregular Daily Subsistence Allowance

Review of County Assembly records revealed that a total of Kshs.29,622,262 was paid to various officers for domestic travel and subsistence allowance. Records revealed that the officers were not issued with imprest while proceeding on official duties, but instead used their money and later made claims for refund. This was contrary to Regulation 93(3) of the Public Finance Management (County Governments) Regulations, 2015 which provides that temporary imprest shall be issued mainly in respect of official journey and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

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

211. Direct Procurement of Air Ticket and Travel Services

Review of the documents provided for audit revealed that three companies were pre-qualified for provision of air tickets and travel services. However, it was observed that out of the total expenditure of Kshs.9,990,000 spent on purchase of air ticket, total sum of Kshs.9,955,000 were paid to one company directly. No documentation was provided to justify why the other two companies were not considered to provide the services despite being pre-qualified. This was contrary to the provisions of Section 103 of Public Procurement and Asset Disposal Act, 2015 which provides circumstances under which direct procurement can be used.

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

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212. Direct Procurement of Office Space

Review of documents provided for audit revealed that the County Assembly spent an amount of Kshs.5,522,550 on payment of Ward office rental expenses. However, no evidence was provided to indicate that the service was procured competitively. This was contrary to Section 103(2) of the Public Procurement and Asset Disposal Act, 2015, which provides circumstances under which direct procurement can be used.

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

213. Irregular Payment of House Allowance to Members of County Assembly

Review of the monthly payroll records revealed that a total of Kshs.410,000 was to forty-one (41) Members of County Assembly in respect of house allowance in the month of September, 2023 at rates above the rates approved by the Salaries and Remuneration Commission. This was contrary to Gazette Notice No. 10350 dated 9 August, 2023 which provides for the house allowances rates payable to state officers depending on their responsibilities.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

214. Non-Updated Fixed Assets Register

The financial statements indicated that the County Assembly owned assets valued at Kshs.254,502,493 as at 30 June, 2024. However, the assets register was not updated to include the following details; dates of purchase were not indicated for additions in the assets, tags on existing assets did not match the narration in the assets register, and some assets had differing descriptions in the assets register.

In the circumstances, the effectiveness of controls on Management of the County Assembly's assets could not be to confirmed.

215. Lack of Business Continuity and Disaster Recovery Plans

During the period under review, Management did not establish Business Continuity and Disaster Recovery Plans to ensure smooth running of the County Assembly's operations in the event of a disaster or unforeseen occurrence.

In the absence of the above plans, the County Assembly operations could be disrupted in the event of occurrence of unexpected events that may have negative impact on its operations.

216. Ineffectiveness of the Internal Audit Function

Review of the operations of the Internal Audit functions revealed that the County Assembly had an internal audit unit in place. However, the internal audit section had only one staff member who was not able to carry out all the required internal audit functions effectively. This was contrary to Regulation 155(2) of the Public Finance Management

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(County Governments) Regulation, 2015 which provides that an Accounting Officer should ensure that the organizational structure of internal audit unit is sufficient.

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

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COUNTY ASSEMBLY OF KIRINYAGA – NO.20

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

217. Variance Between the Financial Statements and Integrated Financial Management System (IFMIS) Reports

The statement of receipts and payments reflects total payments of amounting to Kshs.734,462,357. However, the ledger balances in the Integrated Financial Management System (IFMIS) records reflected a total expenditure of amounting to Kshs.788,137,580 resulting in an unexplained and an unreconciled variance of Kshs.53,675,223.

In the circumstances, the accuracy and completeness of total payments amounting to Kshs.734,462,357 could not be confirmed.

Other Matter

218. Unresolved Prior Year Audit Issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues or given any explanation for the failure to implement the recommendations as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

219. Non-Compliance with the National Cohesion and Integration Act, 2008

The total number of employees at the County Assembly was eighty-four (84) out of which eighty (80) or 95% were from the dominant ethnic community in the County Assembly. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which require that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one-third of its staff from the same ethnic community.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

220. Failure to Update Policy Documents

The Risk Management Policy in place at the County Assembly was last reviewed in August 2018, implying that it was due for review to take cognizant of the new emerging

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risks. Further, the Internal Audit Charter that was approved on 12 June, 2018 had since expired. The Assembly policy stipulates that these policy documents are due for review after every three (3) years. As a result, it was not possible to define the County Assembly's current risk appetite and set the risk tolerance levels by identifying boundaries against unacceptable risk exposures.

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

221. Lack of Approved ICT Strategic Policy

Review of records indicated the Clerk appointed nine (9) members of the staff at the County Assembly to the ICT Steering Committee on 14 July, 2021. The Committee was to promote effective ICT Governance, formulate an IT Strategic Plan and provide strategic direction among other functions.

However, the Committee did not hold any meeting within the financial year under review. Further, the County Assembly did not have an approved ICT strategic policy document for governance and management of ICT resources.

In the circumstances, the security, integrity and confidentiality of the County Assembly's data could not be confirmed.

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COUNTY ASSEMBLY OF MURANG'A – NO.21

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

222. Inaccuracies in the Cash and Cash Equivalents Balance

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.4,301,980 and as disclosed in Note 13A to the financial statements in relation to recurrent and deposit account balances of Kshs.157,350 and Kshs.4,144,630 respectively. However, review of bank reconciliation statement for the recurrent account revealed a reconciled balance of Kshs.157,350 which differs with the credit cashbook balance of Kshs.19,378,646 resulting to unreconciled balance of Kshs.19,535,996.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.4,301,980 could not be confirmed.

223. Variance Between the Financial Statements and Integrated Financial Management System Reports

The statement of receipts and payments reflects total receipts and payments of Kshs.787,079,937 and Kshs.786,922,587 respectively. However, the ledger balances in the Integrated Financial Management System (IFMIS) records reflected total receipts and expenditure of Kshs.787,056,297 and Kshs.788,137,580 resulting to an unexplained and unreconciled variance of Kshs.23,640 and Kshs.1,214,993 respectively.

Further, the statement of financial assets and liabilities as at 30 June, 2024 reflects cash and cash equivalents balance of Kshs.4,301,980. However, the cash and cash equivalent balance in the Integrated Financial Management System (IFMIS) records reflected Kshs.5,048,694 resulting to an unexplained variance of Kshs.746,716.

In the circumstances, the accuracy and completeness of total receipt and payments and the bank balance could not be confirmed.

224. Receipts and Payments After the Cut-off Date

The statement of receipts and payments reflects Exchequer releases amount of Kshs.787,056,297 as disclosed in Note 1 to the financial statements. Included in the amount is late Exchequer release amounting to Kshs.136,082,235 received in the month of July, 2024 but backdated to 30 June, 2024 in the records of the County Assembly. Further, Management made payments amounting to Kshs.124,648,357 after the 30 June, 2024 cut-off date.

In the circumstances, the accuracy and completion of the exchequer releases amounting to Kshs.787,070,937 could not be confirmed.

Emphasis of Matter

225. Budgetary Control and Performance

The statement of comparison of budget and actual amount recurrent and development reflects final budget and actual on a comparable basis of Kshs.892,709,033 and

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Kshs.787,079,937 respectively resulting to an under funding Kshs.105,629,096 or 12% of the budget. However, the County Assembly spent an amount of Kshs.786,922,587 against actual receipts of Kshs.787,079,937 resulting to under-utilization of Kshs.157,350.

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

226. Pending Accounts Payable

The financial statement reflects pending accounts payable balances amounting to Kshs.72,444,487 which were not prioritized and executed as first charge during the financial year under review but were instead carried forward to the financial year 2024/2025.

Failure to settle bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

My opinion is not modified in respect of these matters.

Other Matter

227. Implementation of Prior Year Audit Issues

In the report of the previous year, several issues were raised under the report on Financial Statements, and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management did not resolve the issues or give any explanation for failure to adhere to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

228. Non-Compliance with the Law on Staff Ethnic Composition

The total number of employees of County Assembly was ninety-seven (97) out of which states that eighty-eight (88) or 91% of the total number were from the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

229. Lack of Updated Policy Documents

Review of the Risk Management Policy in place at the County Assembly revealed that it was last reviewed in March, 2019 implying that it was due for review to take cognizant of

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the new emerging risks. In addition, the Internal Audit Charter was approved on 05 July, 2020. The County Assembly policy stipulates that these policy documents are due for review after every three years. Although Management had an estimated workplan and timeline for reviewing of the policy documents by the management committee and subsequent adoption by the County Assembly Board there was no evidence of the minutes approving and authenticating the timelines. As a result, it was not possible to define the County Assembly current risk appetite and set the risk tolerance levels by identifying boundaries against unacceptable risk exposures.

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

230. Inadequate Environmental Control Measures on Information Communication Technology

Physical inspection carried out on the 28 August 2024 at the ICT server room of the County Assembly to determine the environmental control measures put in place on the server room and other computer equipment and systems revealed that the ICT server room containing termination connectivity for internet banking system, and IFMIS was not protected by fire suppression systems, air conditioning systems, UPS and generators.

In the circumstances, the adequacy of the internal control measures on computer systems could not be confirmed.

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COUNTY ASSEMBLY OF KIAMBU – NO.22

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

231. Ineligible Expenditure Compensation of Employees

The statement of receipts and payments reflects compensation of employee's expenditure of Kshs.571,271,477 as disclosed in Note 4 to the financial statements. However, it was noted that during the year under review, two members of the County Assembly Service Board who are external members of the Board and were not members of staff were paid salaries of Kshs.1,455,711 each. Further, examination of Board minutes provided for audit revealed that the two members did not attend any meetings during the year and the salaries paid to them could not be justified.

In the circumstances, the accuracy of the expenditure of Kshs.2,911,422 under compensation of employees could not be confirmed.

232. Inconsistencies in the Financial Statements

The statement of receipts and payments reflects transfers to other Government entities amount of Kshs.201,960,000 which constitute of motor vehicle reimbursements of Kshs.176,960,000 and car loan and mortgage of Kshs.25,000,000 payable to honorable Members of the County assembly as disclosed in Note 7 to the financial statements. However, the amount of Kshs.176,960,000 was not transferred to the Car Loan and Mortgage Scheme Fund.

In the circumstances, the accuracy of transfers to other Government entities totalling Kshs.176,960,000 could not be confirmed.

Emphasis of Matter

233. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development combined reflects final budget receipts and actual on comparable basis amounts of Kshs.1,755,986,518 and Kshs.1,419,787,566 resulting to an under funding of Kshs.336,198,952 or 19% of the budget. However, the Assembly spent an amount of Kshs.1,419,787,046 against actual receipts of Kshs.1,419,787,566 resulting to an under expenditure of Kshs.519.55 only of the actual receipt.

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

My opinion is not modified in respect of this matter.

Other Matter

234. Unresolved Prior Year Matters

The audit report for the year ended 30 June, 2023 raised several unsatisfactory issues in regard to balances reflected in the financial statements, Lawfulness and Effectiveness in

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Use of Resources and Effectiveness of Internal Controls, Risk Management and Governance. However, the issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

235. Non-Compliance with Provision of the Law on Procurement Method

The statement of receipts and payments reflects use of goods and services expenditure totalling Kshs.604,571,505 which as disclosed in Note 5 to the financial statements includes an amount of Kshs.31,551,072 relating to other operating expenses. However, review of the financial records revealed that there was purchase of toners at a cost of Kshs.20,300 which was beyond the legal threshold required by law for low value procurement. This was contrary to the Second Schedule of the Procurement and Asset Disposal Act, Regulations, 2020 which requires that the maximum level of expenditure under low value procurement be Kshs.50,000 per item per financial year.

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

236. Non-Adherence to the National Cohesion and Integration Act, 2008

The statement of receipts and payments and Note 4 to the financial statements reflect compensation of employee's expenditure amounting to Kshs.571,271,477. Review of Human Resource records revealed that the County Assembly had ninety-nine (99) employees out of which eighty-three (83) or 84% were from one dominant community. This is contrary to Section 7(1)(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

Further, three (3) employees recruited during the year belong to one dominant ethnic community. This was contrary to Section 65(I)(e) of the County Governments Act, 2012 which states that in selecting candidates for appointments, the County Public Service Board shall consider the need to ensure that at least 30 % of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

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

237. Non-Compliance with One Third Rule on Basic Salary

The statement of receipts and payments and Note 4 to the financial statements reflect compensation of employees' expenditure amounting to Kshs.571,271,477. Review of the Integrated Payroll and Personnel Database (IPPD) revealed that a total of fifty-three (53) employees were receiving less than one-third (1/3) of their respective basic salaries. This may lead to pecuniary embarrassment and inefficiency in discharging of duties by the affected officers.

This was contrary to the Employment Act, 2007, Section 19 which provides that the total amount of all deductions which under the provisions of subsection (1), may be made by

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an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

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

238. Long Outstanding Pending Bills

Annex 1 to the financial statements reflects analysis of other pending payables amounting to Kshs.161,824,165 as at 30 June, 2024 with some bills dating as far back as 2019/2020 financial year. It is not clear why the bills remained outstanding and did not form first charge of payments in the following financial year. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires that debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations. Further, there is risk of loss of public funds through litigations, interests and penalties.

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

239. Irregular Payments of Subscription and Membership Fees

The statement of receipts and payments reflects use of goods and services expenditure totalling Kshs.604,571,505 which includes other operating expenses amounting to Kshs.31,551,072 as disclosed in Note 5 to the financial statements. Review of sampled payment vouchers relating to membership fees, dues and subscriptions to professional and trade bodies revealed that an amount of Kshs.1,500,000 was paid to Society of Clerks at the Table and County Assembly Forum**.** However, the payments were made without any budget allocation contrary to Regulation 31(a) and 50(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires that all expenditure shall be entered into the budget and shall be committed only against allocation and commitments approval.

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

240. Stalled Projects

240.1. Construction of County Assembly Archives and Member Welfare Facility

Management entered into a contract with a local company for construction of the County Assembly Archives and Members' welfare facility on 28 May, 2021. The contractors raised the first certificate of Kshs.9,661,261,240 during the financial year 2021/2022 which remained outstanding as at 30 June, 2024. Review of the project implementation status report revealed that the project was 25% complete. Further, audit inspection carried out on 8 November, 2024 revealed that the contractor had abandoned the site and the building had stalled.

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240.2. Construction of Ward Offices

240.2.1. Karai and Bibirioni Wards Offices

Contract for construction of Ward offices at Karai and Bibirioni Wards was awarded to a contractor on 10 February, 2020 at a contract price of Kshs.3,965,016 each for a period of fourteen (14) weeks starting 20 March, 2020. The contractor raised the first certificates for an amount of Kshs.2,840,106 each in the financial year 2020/2021 which were paid. Review of the project implementation status report revealed that the two Ward offices projects were 85% complete. Further, audit inspection revealed that the contractor was not on either site and the construction of both Ward offices had stalled. It was also noted that the projects had been vandalized and works done had deteriorated due to abandonment of the projects.

240.2.2. Ngoliba Ward Offices

Contract for construction of Ngoliba Ward offices was awarded to a local contractor on 28 March, 2023 at a contract price of Kshs.7,120,351 for a period between 12 May, 2023 to September, 2023. Review of the project file revealed that the contractor raised the first certificate for an amount of Kshs.2,691,624 which remained outstanding as at 30 June, 2024. An audit inspection carried out in the month of October, 2023 revealed that the project was 37% complete, the contractor had abandoned the site and there was no signage for the project under construction. As at 8 November, 2024, at the time of audit, the status had not changed.

240.2.3. Ngewa Ward Office

Management awarded a local contractor a contract for the construction of Ngewa Ward offices on 28 March, 2023 at a contract price of Kshs.7,875,626 for a period of 16 weeks between 9 May to 18 August, 2023. However, the acceptance letter by the winning bidder and the contract agreement were not provided for audit. Further, review of the project file revealed that the contractor had raised the first certificate for an amount of Kshs.1,742,150 which remained outstanding as at 30 June, 2023. Audit inspection carried out in the month of September, 2023 revealed that the project was 22% complete, the contract period had lapsed, and the contractor had abandoned the site. Further, site meetings minutes to confirm regular assessment of the project were not provided for audit. As at 8 November, 2024, at the time of audit, the status had not changed.

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

241. Non-Compliance with Fiscal Responsibility Principles

The statement of receipts and payments reflects compensation of employee's balance of Kshs.571,271,477 as disclosed in Note 4 to the financial statements. The amount represents approximately 40% of the transfers from County Revenue Fund (CRF) of Kshs.1,419,787,566 being 5% percentage points over and above the maximum allowed ceiling of 35% of the County Government Revenue provided under Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the expenditure set should not exceed thirty-five (35) percent of the county Government's revenue.

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

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REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

242. Lack of Ownership Documents

Annex 4 to the financial statements reflects the summary of non-current assets with a current cost of Kshs.700,295,743. Included in the assets analysis are land and buildings; and structures valued at Kshs.34,324,756 and Kshs.45,173,553, respectively. However, land ownership documents were not provided for audit. Further, the statement of receipts and payments reflects an amount of Kshs.12,073,012 relating to acquisition of assets. Included in this amount is Kshs.8,994,150 relating to purchase of a vehicle but the County Assembly was not in possession of the motor vehicle logbook.

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

243. Non - Adherence to Quarterly Meetings

During the year under review, the Audit Committee held three meetings against the minimum of four quarterly meetings as per the gazette notice. This is contrary to The Kenya Gazette Notice Vol CXVIII-No.40 dated 15 April, 2016; 5.2(a) which states that the Audit Committee should meet at least quarterly in order to give guidance to management on effectiveness of the internal controls and governance lapses.

In the circumstances, the existence of the mechanism to offer oversight on the effectiveness of internal control could not be confirmed.

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COUNTY ASSEMBLY OF TURKANA – NO.23

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

244. There were no material issues noted during the audit of the financial statements.

Emphasis of Matter

245. Irregular Transfers of Funds to County Assembly of Samburu

The financial statements of County Revenue Fund - Turkana County Government reflects transfer of Kshs.15,863,929 to County Assembly of Samburu on 28 June, 2024. The Management explained that the transfer was done in error and a review of the bank statements confirmed the funds were reversed back on 8 August, 2024. The erroneous transfer denied the residents of the County of Turkana the benefits from utilization of these funds during the period under review.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

246. Irregular Recruitment of Staff

Analysis of the County Assembly's Payroll data and the list of newly recruited staff provided revealed that the County Assembly recruited two hundred and five (205) additional members of staff during the year under review. However, review of the documents provided in support of the recruitment revealed that recruitment process was not in line with Section 66 of the County Governments Act, 2012 that requires County Public Service Board to consider the need for open and transparent recruitment of public servants and to invite applications through advertisement and other modes of communication so as to reach as wide a population of potential applicants as possible and especially persons who for any reason have been or may be disadvantaged.

Further, Management did not provide evidence to confirm recruitment plans to support the additional staff were prepared based on requisition for the additional staff by user departments and that the filled posts were declared vacant to the County Assembly Service Board as provided for in Section B.3(1) and (2) of the County Assembly Human Resource Manual, 2015 which requires all vacant posts to be declared in accordance with the procedures set out in the County Governments Act, 2012 and in a prescribed format which shall include: the number of vacancies; when the vacancy occurred; whether the vacancy is within the authorized establishment and other relevant details. In addition, there was no evidence of appointment of selection and interviewing panel and invitations to the candidates for interviews and Board resolutions to appoint the staff.

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

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247. Non-Compliance with the Law on Ethnic Representation and People with Special Needs

Review of the payroll data for the newly recruited staff numbering two hundred and five (205) revealed that the recruitment did not consider the diversity of the people of Kenya. The staff recruited comprised of two hundred and four (204) or 100% from the dominant ethnic community. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

Further, it was also noted that the appointment did not include any staff from persons with disability or persons who for any reason have been disadvantaged as required by Section 13 of the Persons with Disabilities Act, 2003 which states that the Council shall endeavor to secure the reservation of five (5) percent of all casual emergency and contractual positions in employment in the Public and Private Sectors for persons with disabilities.

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

248. Excess Staff Establishment

Review of payroll data revealed that the County Assembly had three hundred and fifty-three (353) staff in the payroll against the authorized establishment of two hundred and thirty-nine (239) staff, leading to a variance of one hundred and fourteen (114) in excess of the authorized establishment. This has led to excess staffing in various departments against authorized establishment leading to an excess staff.

In the circumstances, Management was in breach of the County Assembly human resource policies and controls.

249. Non-Compliance with the One-Third Basic Salary Rule

Review of the County Assembly's payroll for the year ended 30 June, 2024 revealed that a number of employees were earning less than a third (1/3) of their respective basic salary as shown below. This was contrary to Section 19(3) of the Employment Act, 2007, which requires that deductions from employee wages shall not exceed two-thirds of such wages.

S/No.	Month	Number of Staff
1	July	153
2	August	110
3	September	138
4	October	216
5	November	254
6	December	285
7	January	303
8	February	306

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S/No.	Month	Number of Staff
9	March	312
10	April	344
11	May	347
12	June	367

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

250. Irregular Legal Expenses

During the year under review, the County Assembly paid a legal firm an amount of Kshs.2,320,000 in settlement of legal fees for pending bills which arose from prior years' engagements in eight (8) litigation cases with an aggregate fee note of Kshs.19,209,639. However, the legal fees for each of the eight (8) cases were charged at rates ranging between Kshs.1,000,000 to Kshs.5,000,000, which was above the rates set by the Advocates Remuneration (amendment) Order, 2014.

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

251. Non-Compliance with the Public Finance Management Regulations, 2015 on Fiscal Responsibility Principle on County Assembly Expenditure

Review of Turkana County Assembly Finance Act, 2023 revealed that the County Assembly had an approved appropriation of Kshs.1,070,834,859 under recurrent expenditure. However, the amount was in excess of 7% of the total revenues of the County Government and exceeded twice the personnel emoluments of the Assembly amount of Kshs.936,909,264 by Kshs.133,925,595. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the approved expenditure of the county assembly shall not exceed 7% of the total revenue of the county government or twice the personnel emoluments of that county assembly, whichever is lower.

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

252. Non-Compliance with Climate Regulations

Review of documents relating to budget estimates for the County Assembly revealed that there was no allocation of budgetary resources for climate initiatives. In addition, it was noted that the County Assembly did not develop and implement a climate action plan as mandated by National Climate Change Framework Policy since the Management did not provide monitoring reports or documentation on the implementation of climate regulations.

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

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Basis for Conclusion

253. Lack of Internal Audit Charter

During the year under review, the County Assembly did not have an approved Internal Audit Charter. This was contrary to the County Government Internal Audit Manual, 2021 Paragraph 1.2.1 which requires Internal Audit Units in all the County Government entities to establish an Internal Audit Charter that prescribes the Internal Auditor's purpose, authority and responsibility.

In the circumstances, there is a high risk of non-compliance with the procedures which might lead to operational inefficiencies within the Internal Audit Function.

254. Lack of Performance Appraisal of the Internal Audit Unit

Regulation 159(1) of the Public Finance Management (County Governments) Regulations, 2015 requires the Head of Internal Audit Unit within the County Assembly to assess the effectiveness of the internal audit unit through an internal performance appraisal and an annual review of the performance of the internal audit activity and comment on the effectiveness in an annual report to the County Treasury. However, no evidence was provided to confirm that the Head of Internal Audit complied with the above Regulation. Further, the internal audit function did not undergo a professional assessment of its effectiveness which should have been undertaken by a professionally recognized body or institution contrary to Regulation 159(3) of the Public Finance Management (County Governments) Regulations, 2015.

In addition, the Audit Committee did not carry out an annual review of the independence, performance and competency of the Internal Audit Unit and comment on their effectiveness in the annual report contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015.

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

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COUNTY ASSEMBLY OF WEST POKOT – NO.24

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

255. There were no material issues noted during the audit of the financial statements.

Emphasis of Matter

256. Pending Account Payables

Note 1 under other disclosures to the financial statements reflects pending accounts payable of Kshs.23,560,532 out of which a balance of Kshs.9,071,132 relates to supply of services and Kshs.14,489,400 relates to installation of a multi-media system. Further Note 2 under other disclosures to the financial statements reflects pending Car Loan and Mortgage Funds of Kshs.15,442,300 payable by County Assembly to members and staff Car Loan and Mortgage Schemes.

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

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

257. Failure to Comply with the Requirements of the Law on Ethnic Composition

Review of the County Assembly's Personnel records revealed that the County Assembly had three hundred and twelve (312) members of staff. It was revealed that eighty-seven (87) ward staff members out of ninety-four (94) or 93%, thirty-two (32) senior management staff out of thirty-five (35) comprising 91%, fifty-nine (59) middle management staff out of sixty-three (63) or 94% and seventy-nine (79) support staff out of eighty-one (81) or 95% were from the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008, which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community

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

258. Non-Compliance with the One-Third Basic Salary Rule

Review of the payroll of the County Assembly for the month of June, 2024, revealed that seventeen (17) members of staff were earning less than a third (1/3) of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that the total amount of all deductions may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages

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

259. Irregular Procurement of Heavy-Duty Utility Passenger Vehicle

The County Assembly awarded a contract for the supply and delivery of heavy duty, utility passenger vehicle 2755cc, diesel, 2WD with 4WD switch on 13 December, 2023 at a contract cost of Kshs.11,666,160 with a contract period of one financial year from the date of signing of the contract. The vehicle was delivered and accepted on 25 March, 2024. However, the requisition was not supported with a detailed schedule of requirements and specifications of motor vehicles, plant and equipment from County Executive Committee Member responsible for matters relating to transport and mechanical engineering as required by Regulation 173(1) of the Public Procurement and Asset Disposal Regulations, 2020.

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

260. Non-Compliance with Climate Change Regulations

Review of documents revealed that the County Assembly did not allocate any budgetary resources for climate change initiatives. Further, the County Assembly did not develop and implement a climate change action plan as mandated by National Climate Change Framework Policy.

In the circumstances, Management was in breach of the Climate Change Framework Policy.

261. Delayed Completion of a New Complex for West Pokot County Assembly

The statement of receipts and payments reflects an expenditure of Kshs.101,021,005 under acquisition of assets which, as disclosed in Note 7 to the financial statements, includes an amount of Kshs.1,800,937 relating to construction of buildings. The amount was paid during the year for construction of a modern County Assembly complex. The contract was awarded on 6 January, 2015 at a contract sum of Kshs.358,392,421.

The contractor had been paid a total of Kshs.346,904,962 or 97% of the contract sum to date. The amount paid included prime cost of Kshs.34,000,000 which was not accounted for. The completion/interim certificates were issued upon valuation by the quantity surveyor contrary to Section 48(4) of the Public Procurement and Asset Disposal Act, 2015 which requires the Inspection and Acceptance Committee to ensure that the correct quantity of the goods is received, the goods, works or services meet the technical standards defined in the contract, the goods, works or services have been delivered or completed on time, or that any delay has been noted, all required manuals or documentation have been received and issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

The project was behind schedule as it was supposed to be completed by February, 2018, Management did not claim liquidated damages from the contractor as provided for in the contract.

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Physical inspection of the project in the month of September, 2024 revealed that the project was 90% complete. Further, although Management had occupied some of the offices in the new building, no completion nor occupation certificates were provided for audit.

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

262. Stalled Construction of County Assembly Restaurant and Car Park

As previously reported, the County Assembly entered into a contract with a firm for the construction of a restaurant and a car park on 3 January, 2014 at a contract sum of Kshs.36,685,718. An expenditure of Kshs.15,765,679 was incurred on the project in the financial year 2014/2015. During the year under review, project records including payment vouchers, certificates of completion issued, status report of the project were not provided for audit and the project had stalled.

In the circumstances, the objectives of the project was not achieved and residents of County may not have realized value for money on the funds spent on the project.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

263. IT Internal Control Weaknesses

The County Assembly did not have a Disaster Recovery Plan and IT Security Policy to ensure data confidentiality, integrity and availability. Further the County Assembly did not have IT Strategic Plan, IT Business Plan, training program and policy on physical access to IT infrastructure.

In the circumstances, the effectiveness of the County Assembly's IT internal controls could not be confirmed.

264. Inefficient Internal Audit Function and Audit Committee

The County Assembly's Internal Audit function did not conduct quarterly audits as guided by Regulation 166(1) and (2) of the Public Finance Management (County Governments) Regulations, 2015. Further, review of the Audit Committee Minutes revealed that the Committee met only once during the year contrary to Section 179(1) of the Public Finance Management Act, 2012 that requires the Audit Committee to meet at least once in every three months.

In addition, the Internal Audit Unit did not prepare an Annual Work Plan while the Head of Internal Audit did not communicate the impact of resource limitations and significant interim changes to the Accounting Officer and the Audit Committee.

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

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COUNTY ASSEMBLY OF SAMBURU – NO.25

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

265. Inaccuracies in the Financial Statements

265.1. Variances Between Financial Statements and Notes to the Financial Statements

Review of financial statements revealed variances between balances reflected in the financial statements and the balances disclosed in the corresponding Notes to the financial statements as detailed below:-

Component	Balances as per Financial Statements (Kshs.)	Balances as per corresponding Notes (Kshs.)	Variance (Kshs)
Compensation of Employees	300,710,114	300,710,339	(25)
Third Party Deposits and Retention	-	3,675,484	(3,675,484)
Increase/Decrease in Accounts Payable	-	(9,210,550)	9,210,550

265.2. Inaccuracies in Pending Accounts Payables

Annex 1 to the financial statements reflects a balance of Kshs.18,595,650 in respect of pending accounts payable. However, Note 1 to the financial statements under other disclosures reflects a Nil balance in respect to pending account payables resulting to unexplained variance of Kshs.18,595,650.

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

266. Unsupported Expenditure on Legal Services

The statement of receipts and payments as disclosed in Note 5 to the financial statements reflects an amount of Kshs.209,524,644 in respect of use of goods and services which includes an amount of Kshs.10,205,037 in respect of other operating expenses. Included in this expenditure is an amount is Kshs.3,150,000 paid to two (2) law firms for the provision of legal services. However, supporting documents including written instructions to the advocates and status reports of the cases handled were not provided for audit review.

In the circumstances, the occurrence and accuracy of the legal expenses of Kshs.3,150,000 could not be confirmed.

267. Unconfirmed Transfers to Other Government Entities

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.55,300,000 in respect to transfers to other

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Government entities which relates to transfers to Samburu County Assembly Car Loan and Mortgage Scheme Fund. However, the financial statements of the Fund did not reflect the receipts of the Kshs.55,300,000 from the County Assembly.

In the circumstances, the accuracy and completeness of the transfers to other Government entities of Kshs.55,300,000 could not be confirmed.

Other Matter

268. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2024. Management did not provide reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues were not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

269. Non-Compliance with the Financial Reporting Framework Template

Review of the annual report and financial statements submitted for audit revealed that the financial statements did not comply with financial reporting format issued by the Public Sector Accounting Standards Board. This was contrary to Section 81(3) of Public Financial Management Act, 2012 which states that the Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Public Sector Accounting Standards Board.

In the circumstances, the financial statements did not comply with the financial reporting templates issued by the Public Sector Accounting Standards Board.

270. Unauthorized Voided Payments

Review of Integrated Financial Management Information System (IFMIS) records revealed that one hundred (100) payment transactions amounting to Kshs.55,557,469 were processed and voided or canceled during the year ended 30 June, 2024. However, no documentary evidence was provided to support authorization and reasons for voiding the transactions, which had been presented and approved by the Controller of Budget (COB). Further, no evidence was provided to confirm that the Controller of Budget was informed of the voiding of the payments so as to make necessary adjustments.

In the circumstances, the regularity of the voided payments could not be confirmed.

271. Non-Adherence to Regulations on Training Expenditure

The statement of receipts and payments as disclosed in Note 5 to the financial statements reflects an amount of Kshs.209,524,644 under the use of goods and services which includes training expenses amounting to Kshs.30,978,573. This expenditure includes an amount of Kshs.2,916,000 issued as imprest to an officer on behalf of forty-three (43)

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members. The funds were intended to cover transportation costs, conference facility charges, and facilitation fees for a training conducted at a Nakuru Hotel. However, it was noted that all the participants were from County Assembly of Samburu. No justification was provided for the failure to conduct the training in Samburu, given that the majority of participants were from the same County. This was contrary to Treasury Circular No.20/2015 of 4 November, 2015 Part(vi) (12) which stipulates that accounting officers are required to ensure that all workshops and retreats with majority of participants drawn from one duty station are held within the precincts of the duty station.

In the circumstances, the value for money for the payment of Kshs.2,916,000 could not be confirmed and the Management was in breach of the law.

272. Non-Compliance with the One-Third of Basic Salary Rule

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects payments totalling to Kshs.300,710,339 in respect of compensation of employees. However, examination of the payroll records revealed that ten (10) employees earned a net salary that was less than one-third (1/3) of the basic salary contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee shall not exceed two thirds (2/3) of such wages.

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

273. Non-Compliance with the National Cohesion and Integration Act, 2008

Examination of the payroll for the County Assembly for the month of June, 2024 revealed that the County Assembly had ninety-one (91) members of staff out of whom seventy-seven (77) employees were from the dominant community in the county representing 84% of the total work force. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one-third of its staff from the same ethnic community.

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

274. Irregular Payment on Subscriptions to Society of Clerks-At-The-Table

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.209,524,644 in respect of use of goods and services which includes an amount of Kshs.10,205,037 in respect of other operating expenses. This expenditure includes an amount of Kshs.750,000 paid as annual subscriptions to Society of Clerks-At-The-Table (SOCATT). However, the society is not established by law hence the regularity of the subscription could not be confirmed. This was contrary to Regulation 42(1)(b) of which the Public Finance Management (County Governments) Regulation, 2015 which requires the Accounting Officer to ensure public funds are applied for purposes for only which they were intended and appropriated by the County Assembly.

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

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275. Irregularities in the Procurement of Library Books

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.209,524,644 in respect of use of goods and services which includes specialized materials and services amount of Kshs.4,400,470. This expenditure includes an amount of Kshs.699,650 paid to a local company for the supply of library books. However, review of the payment voucher, delivery note and the local purchase order, and other procurement documents revealed the following anomalies:

(i) The local purchase order was issued on 15 March, 2023, but the books were delivered on 18 June, 2023, 65 days after the LPO's 30-day validity period had expired, as evidenced by Delivery Note. No explanation was provided for the failure to cancel the LPO after its expiry, contrary to Regulation 53(4) of the Public Finance Management (National Government) Regulations, 2015.

(ii) Procurement documents including quotations issued to the suppliers, tender opening and evaluation committee reports, notification of award and contract agreement with the supplier were not provided for audit review.

(iii) Store records showing how the books were received and recorded were not provided for audit review. This was contrary to Section 162 of the Public Procurement and Asset Disposal, 2015 which requires an accounting officer to ensure that procured items are properly received, accounted for, and utilized for their intended purpose.

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

276. Delay in Completion of the Construction of County Assembly Chambers

The statement of financial position and as disclosed in Note 10 to the financial statements reflects an amount of Kshs.89,903,795 in respect of acquisition of assets which includes an amount of Kshs.17,765,000 in respect of supply and delivery of office furniture to the County Assembly Chambers. The County Assembly had awarded the tender to a local company for the construction of the Chambers at a contract sum of Kshs.319,169,121. The project commenced on 9 February, 2017, with an expected completion date of 8 August, 2018. However, review of the project file and physical verification conducted in September, 2024 revealed that as of the time of audit, the project had taken a total of 384 weeks which is approximately 270 weeks past the original completion date and the project remained incomplete. The tender minutes or any correspondence with the contractor on the approval of the extension of the project duration beyond 8 August, 2018 was not provided for audit review.

Further, the County Assembly did not provide evidence that the project management and other stakeholders including (whether the representatives of the County Assembly held site meetings to assess the implementation of the project and confirm the metrics during the engineers visit to give valuation certificates for payments.

In the circumstances, it was not possible to confirm that the County Assembly obtained value for money from the expenditure incurred on the project.

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277. Non-Establishment of County Assembly Fund

The County Assembly Service Board had not established a County Assembly Fund. This was contrary to Section 34 of the County Assembly Service Act, 2017 which provides that there shall be established for each County, a fund to be known as the County Assembly Fund, whose purpose is to receive any grants, gifts, donations or bequests; monies from investments of the Board and such fees imposed or levies administered by the Board.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

278. Lack of Independence of the Internal Audit Department

Review of Samburu County Assembly Internal Audit operations revealed that the Department lacked functional independence since it did not have an independent budget to enable it to accomplish its mandate. It was also observed that the Department lacked adequate number of personnel since it had only one (1) employee. In addition, the approved Internal Audit Charter and the annual work plan that ought to have been submitted to the Audit Committee by 15 February each financial year was not provided for review. This was contrary to Regulation 163(1) of the Public Finance Management (County Governments) Regulations, 2015. Further, the Internal Audit reports for year under review were not provided for audit review contrary to Regulation 164(3)(c) of the Public Finance Management (County Governments) Regulations, 2015 which states that when updating the management of the progress *of* an audit assignment, the internal auditor shall issue a signed written report after each Internal Audit assignment that is objective, clear, concise and timely.

In the circumstances, the existence of an effective internal controls and governance system could not be confirmed.

279. Weakness in Audit Committee

The County Assembly had an Audit Committee in place. However, no notices or minutes of audit committee meetings were provided for audit review to confirm that the Committee convened at least once every three (3) months to discuss internal audit reports, as required. This was contrary to Regulation 172(1) of the Public Finance Management-(County Governments) Regulations, 2015 which requires that the Audit Committee shall meet at least once in every three (3) months.

In the circumstances, the County Assembly did not benefit from the oversight role and advice from an effective Audit Committee.

280. Lack of ICT Strategic Plan, Approved Policy and ICT Steering Committee

The Assembly did not have an ICT Strategic Plan, ICT Steering Committee and ICT Strategic Committee, in place.

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In the circumstances, the County Assembly may not have necessary strategies, policies and plans to guide on Business Improvement and Security Information.

281. Use of Personal Emails for Official Government Business

Review of the Assembly's communication systems revealed that all staff were using personal emails for official government business and did not have official email addresses. This was contrary to the Head of Public Service circular SH/ADM 23(1) dated 14 June, 2022 Government ICT standards, 2019 prescribing that all Ministries, Counties, Departments and Agencies (MCDAs) shall acquire and ensure appropriate use and management of E-mail and Instant messaging applications.

In the circumstances, the controls around information security could not be confirmed.

282. Lack of Risk Management Policy

Management did not provide evidence of the existence of a risk management policy to guide its management on risk management assessment and formulation of risk mitigation strategies in the year under review.

In the circumstances, the effectiveness of risk management process in the County Assembly could not be confirmed.

283. Inconsistencies in Non-Current Assets Balance

The summary of non-current asset register in Annex 4 reflects total assets balance of Kshs.828,167,778 while the assets register provided for audit review reflects total assets of Kshs.481,589,313 resulting in an unexplained variance of Kshs.346,578,465. Further, physical inspection of assets revealed that asset tagging had not been done on all County Assembly assets.

In the circumstances, the existence of effective internal controls on management of non-current assets could not be confirmed.

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COUNTY ASSEMBLY OF TRANS NZOIA – NO.26

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

284. There were no material issues noted during the audit of the financial statements.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

285. Non-Compliance with National Cohesion and Integration Act, 2008

Review of the Integrated Payroll and Personnel Database (IPPD) and other human resource records provided for audit revealed that ninety-one (91) out of one-hundred and sixty-five (165) or 55% of the County Assembly staff members were from the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same community.

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

286. Irregular Payment of Legal Fees

Review of legal expenses revealed that during the year under review, the County Assembly paid an amount of Kshs.890,000 to a private law firm as legal fees. However, Management did not provide the approval from the County Attorney or the designated principal legal advisor to the County Assembly to engage the private law firm. In addition, there was no opinion and letter of no objection for engagement of private legal firms by the County Attorney. Further, the payments were not supported with user requisitions, evidence of competitive bidding from the list of prequalified legal firms, professional opinions from the head of procurement, notification of awards and acceptance letters, contract, the itemized instructions made to the lawyers on the services required, copies of judgments summaries where applicable, and certificates of costs on which the legal fee notes were based.

In the circumstances, value for money on legal expenses amount of Kshs.890,000 could not be confirmed.

287. Irregular Imprest Issued for Payment of Services

The statement of receipts and payments reflects an amount of Ksh.376,423,223 in respect of goods and services, which as disclosed in Note 3 to the financial statements includes expenditure amounting to Kshs.8,581,820 on printing, advertising, information supplies, and services. However, review of the supporting ledger revealed that an Imprest amount of Kshs.1,913,646 was issued to five (5) staff for printing services at the Government Printers. However, Management did not provide satisfactory explanation

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why the County Assembly did not pay for the services directly to the Government Printer as opposed to issuance of imprest.

In the circumstances, the regularity and value for money on the printing expenditure totalling Kshs.1,913,646 could not be confirmed.

288. Delayed Completion in Construction of the Administration Building and County Assembly Chambers

The County Assembly Service Board contracted a construction company for the proposed construction of the administration building and Assembly Chambers through a tender at a contract price amount of Ksh.477,657,860. The contract was signed on 18 January, 2021 for a contract period of eighteen (18) weeks but was subsequently terminated on 22 July, 2022 after incurring costs amounting to Kshs.39,231,347 or (8%) percent of the contract sum. The County Assembly then contracted another company through a re-tender to implement the remainder of the works at a contract sum of Kshs.464,359,150 over a contract period of thirty-seven (37) weeks from 20 March, 2023. However, as at 30 June, 2024 the County Assembly Service Board had paid Kshs.333,444,292 or seventy-two (72%) of the contract sum but still the project was behind schedule. The County Assembly had not initiated the process of claiming liquidated damages as provided for in Regulation 133(2) of the Public Procurement and Asset Disposal Regulations, 2020 for the delay to deliver the completed building.

In the circumstances, value for money on the expenditure amounting to Kshs.372,675,639 already incurred on the project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

289. Lack of Effective Internal Audit Function

The County Assembly had in place an Internal Audit function responsible for reviewing the governance mechanisms and operational efficiencies of the County Assembly for transparency and accountability with regard to the finances and assets of the Assembly. However, there was no evidence in form of a report or audit plans to show that the department reviewed and evaluated budgetary performance, financial management, transparency and accountability mechanisms and processes in the County Assembly.

In the circumstances, effectiveness of the internal audit in advising the Management on the operational deficiencies could not be confirmed.

290. Non-Implementation of Audit Recommendations

Review of appointment letters for Audit Committee members revealed that part of their responsibilities was to engage the external audit function and assess the adequacy of management responses to issues, identified by the audit. They were also required to provide periodic reports to the accounting officer. However, review of Audit Committee files and the minutes of their meetings revealed that the Committee did not deliberate on

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any audit reports both internal and external audit reports. In addition, despite appearing in regular parliamentary committees, there was no evidence provided for audit to show how the County Assembly addressed the audit recommendations.

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

291. Lack of Monitoring and Evaluation Team

Review of the County Assembly Strategic Plan 2023-2027 revealed that the County Assembly should have a monitoring and evaluation team which was to be responsible for measuring and reporting on performance as far as the implementation of the strategic plan is concerned. However, there was no evidence that the team was functional since no reports, operational plans or minutes of their deliberations were provided for audit.

In the circumstances, the achievement of the operational objectives as stipulated in the strategic plan could not be confirmed.

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COUNTY ASSEMBLY OF UASIN GISHU – NO.27

REPORT ON THE FINANCIAL STATEMENTS

Basis of Qualified Opinion

292. Variances between Financial Statements and IFMIS Reports

The statement of receipts and payments reflects balances which are at variance with balances reflected from the Integrated Financial Management Information System (IFMIS) ledgers as detailed below;

Acquisition of Assets	Amount in Financial Statements/Schedules (Kshs.)	Amount in IFMIS Reports (Kshs.)	Variance (Kshs.)
Construction of Buildings	126,772,006	131,305,198	(4,533,192)
Purchase of Office Furniture and General Equipment	10,000,000	4,999,900	5,000,100
Purchase of ICT Networking and Communication Equipment	33,091,002	15,042,604	18,048,398
Fuel oil and Lubricant	6,000,000	1,803,353	4,196,647
Routine Maintenance Vehicle and Other Transport Equipment	8,200,000	1,788,775	6,411,225
Foreign Travel	26,000,000	60,928,885	(34,928,885)
Catering Services	43,500,000	23,507,203	19,992,797
Insurance	35,175,807	-	35,175,807
Printing, Advertising	41,839,146	22,393,529	19,445,617
Other Operating Expenses	23,080,000	9,622,700	13,458,300

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

293. Unsupported Fuel Expenditure

The statement of receipts and payments reflects an amount of Kshs.356,054,953 in respect to use of goods and services as disclosed in Note 4 to the financial statements which includes expenditure amounting to Kshs.6,000,000 spent on fuel, oil and lubricants. However, the expenditure was not supported by fuel statements and monthly fuel consumption reports and reconciliations, a detailed expenditure schedule and statements from the vendor showing registration of motor vehicles drawing fuel, litres drawn and cost per litre.

In the circumstances, the accuracy and completeness of the amount of Kshs.6,000,000 on fuel, oil and lubricant could not be confirmed.

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Emphasis of Matter

294. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (Recurrent and Development) reflects final receipts budget and actual on comparable basis amounts of Kshs.1,073,056,637 and Kshs.956,275,539 respectively resulting to underfunding of an amount of Kshs.116,781,098 or 11 % of the budget. Similarly, the County Assembly spent Kshs.956,248,325 against actual receipts amount of Kshs.956,275,539 resulting to under-expenditure of Kshs.27,214 of the actual receipts.

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

295. Accumulation of Pending Accounts Payables

Note 16 of other important disclosures to the financial statements reflects pending accounts payables balance of Kshs.37,702,163 as at 30 June, 2024. The accumulation of pending bills was contrary to The National Treasury Circular Ref AG 3/101/75 which requires Accounting Officers to establish effective financial controls and maintain financial discipline for efficient use of resources and Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires that debt service payments shall be a first charge on the County Revenue Fund.

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

My opinion is not modified in respect of these matter.

Other Matter

296. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues by 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

297. Non-Compliance with the Law on Ethnic Composition

Review of human resource records for the year under review revealed that the County Assembly had one hundred and thirty-two (132) members of staff as at 30 June, 2024, out of which one hundred and twenty-two (122) or approximately 92% were from the same ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 in regards to ethnic balance in staff composition

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which requires that public institution not to have more than one third of its staff establishment from the same ethnic community.

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

298. Salaries Paid Outside Integrated Payroll and Personnel Database System

The statement of receipts and payments reflects compensation of employees' amount of Kshs.394,848,764 and as disclosed in Note 3 to the financial statements which includes Kshs.56,961,069 paid to forty-four (44) personal assistants to the Members of County Assembly, forty-four (44) drivers, forty-four (44) liaison staffs based in various Ward offices and other personnel whose salaries were processed outside Integrated Payroll and Personnel Database (IPPD). No explanation was provided for the processing of the wages outside the IPPD system. This was contrary to The National Treasury Circular No.ES/03 R (10) on the guidelines for preparation of the 2022/23-2024/25 medium-term budget of 19 July, 2021 which states that allocation for personnel emoluments must be supported by Integrated Payroll and Personnel Database (IPPD) and Section 1.5.1 of The National Treasury Guidelines through the Financial Accounting Recording and Reporting Manual which requires that each County Government department is responsible for populating the IPPD with the information contained in these documents, issuing each appointee with a unique payroll number from the system, and providing the appointee with a letter of appointment.

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

299. Delayed Completion of Speaker's Residence

The County Assembly advertised a tender for proposed construction of the Speaker's residence on 16 May, 2023. The tender was awarded to a contractor on 21 June, 2023, at a contract sum amounting to Kshs.34,850,935 for a period of seventy-two (72) weeks. However, progress status reports from the contract/project implementation committee were not provided for audit.

The total gross valuation according to the first interim payment certificate raised on 6 March, 2024 amounted to Kshs.17,520,750 which represents 50% of the contract price. However, physical inspection of the project in September, 2024 estimated the project progress rate at 40%. This casts doubt on contractor's ability to complete the project by 6 November, 2024 as per the signed contract agreement. In addition, sixty-two (62) weeks had lapsed since the project commencement date which was approximately 86% of contract period as at the time of our audit in September, 2024 and that the contractor was not on site.

In the circumstances, value for money may not be achieved on the project.

300. Delayed Construction of Main Chambers and Office Building for the County Assembly

The tender for the proposed construction of new chambers and office building for the County Assembly was awarded to a contractor at a contract sum of Kshs.491,934,272 and a contract agreement signed on 25 November, 2021 for a period of one hundred and forty-one (141) weeks. On 21 August, 2023, the contractor entered into a sub-contract agreement for building works and an approval was granted by the County Assembly

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Service Board on 29 September, 2023. During the year under review, a total of Kshs.106,366,497 was paid to the sub-contractor being payment for construction of chambers. However, the following anomalies were noted;

i. On 2 July, 2024, the Chairperson of the Project Implementation Committee tendered his resignation from the committee in unclear circumstances and the current status of the project implementation committee was not provided for audit.

ii. The Project Implementation Committee during project inspection on 12 July, 2024 issued a notice of slow progress dated 27 August, 2024 to the contractor as well as the sub-contractor where the progress of work was very slow and the work done was not commensurate with time elapsed.

iii. As at 30 June, 2024, a total of Kshs.169,923,009 had been paid to the contractor and the sub-contractor representing 35% of the total contract sum.

iv. According to the site handover report, the commencement date for the project was 11 January, 2022 and the expected completion date was 30 October, 2024. The time lapse as at the time of audit was one hundred and thirty-eight (138) weeks representing 97% of the contract duration. However, during physical inspection in the month of September, 2024 the project was approximately 35% complete. Building works were at the fifth (5^{th}) floor and the contractor was not on site and no construction work was ongoing.

In the circumstances, the delayed completion of the project, exposes the County Assembly to risk of cost escalation and value for money on expenditure may not be achieved.

301. Irregular Payment to the County Assembly Forum

The statement of receipts and payments reflects an amount of Kshs.356,054,953 relating to use of goods and services as disclosed in Note 4 to the financial statements. Included in the balance is Kshs.500,000 being payment of subscriptions to the County Assemblies Forum. However, the entity is not established in law and not authorized to receive public funds hence the payments were irregularly made.

In the circumstances, regularity and value for money on the payment could not be confirmed.

302. Non-Compliance with the One-Third of Basic Salary Rule

The statement of receipts and payments reflects compensation of employees amount of Kshs.394,848,764 as disclosed in Note 3 to the financial statements. However, review of the June, 2024 payroll revealed that twenty-four (24) employees earned a net salary of less than a third of the basic pay contrary to Section 19(3) of the Employment Act, 2007 which states that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of Subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

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303. Failure to Submit Financial Statements for the County Assembly Service Board

As previously reported, the County Assembly Board did not submit its financial statements for the year under review to the Auditor-General for audit. The Board has since its inception in the year 2013 not prepared or submitted its financial statements for audit which was contrary to Section 32(2)(a) of the County Assembly Services Act, 2017 which states that within three months after the end of each financial year, the Secretary shall submit to the Auditor-General the accounts of the Board for the year with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

304. Exclusion Land in Non-current Assets Register

The summary of non-current assets register reflects total historical cost carried forward amount of Kshs.522,605,108 which includes Kshs.169,863,008 in respect of additions during the year as disclosed in Annex 2 to the financial statements. However, the historical cost of land owned by the County Assembly was not included in the summary of non-current asset register. In addition, land ownership documents were not provided for audit.

In the circumstances, the ownership and custody of the assets could not be confirmed.

305. Lack of Risk Management Policy

Review of the policies in place revealed that the County Assembly does not have a Risk Management Policy and therefore, the County Assembly may not be able to mitigate potential risks when they occur. In addition, there was lack of Business Continuity Plan which is a strategic framework that outlines directions and procedures the County Assembly should follow when faced with a crisis such as civic unrest, cyber threats or fire.

In the circumstances, the County Assembly's ability to manage risks and business continuity could not be confirmed.

306. Failure to Maintain an Updated Imprest Register

Review of the imprest register revealed that the County Assembly does not maintain a complete and updated register for management and control of imprests issued. Further, details relating to the payee, personal numbers, designation, imprest warrant number, date of issue, due date and date of surrender, were not recorded in the imprest register. This was contrary to provisions of Regulations 93(4)(c) of the Public Finance Management Regulations (County Governments), 2015 on management of issuance and control of imprests.

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In the circumstances, controls in place to manage imprest issued in a lawfully and in an effective manner could not be confirmed.

307. Weak Information Technology Internal Control Environment

The County Assembly did not have in place, an approved Information Technology (IT) strategic committee, IT strategic plan, IT Steering Committee, and IT Security Policy which are important in performing the oversight function and formulation of policies to ensure that the IT investments and functions are directed towards achievement of the mandate of the County Assembly.

In the circumstances, the reliability and effectiveness of the County Assembly's Information Technology internal controls could not be confirmed.

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COUNTY ASSEMBLY OF ELGEYO/MARAKWET– NO.28

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

308. Variance Between Financial Statements and IFMIS Reports

The statement of receipts and payments reflects total receipts and expenditure of Kshs.706,717,023 and Kshs.706,716,501 respectively as shown in Note 7 to the financial statements. However, the balance differed with the Integrated Financial Management Information System (IFMIS) ledger balance as detailed below;

Details	Financial Statements Amounts (Kshs.)	IFMIS Reports Amounts (Kshs.)	Variances (Kshs.)
Receipts			
Transfer from County Treasury/Exchequer Releases	706,717,023	0	706,717,023
Payments			
Use of Goods and Services	341,223,397	332,372,862	8,850,536
Transfer to Other Government Entities	29,433,000	0	29,433,000
Acquisition of Assets	11,533,003	49,814,003	(38,281,000)
Finance Costs including Interest	0	2,535	(2,535)
Accounts Receivable - Imprest	0	5,198,347	(5,198,347)

No explanation was provided for the variances of the two (2) sets of records.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2024 could not be confirmed.

309. Irregular Payments to County Assemblies Forum

The statement of receipts and payments reflects other grants and transfers balance of Kshs.6,498,497 which includes subscriptions amounting to Kshs.5,000,000, to County Assemblies Forum (CAF) as disclosed under Note 8 to the financial statements. However, the legality of County Assemblies Forum as body to which subscription payments were made could not be confirmed as no documentation in support of their formation, composition and operation was provided for audit verification.

In the circumstances, the regularity of the expenditure amount of Kshs.5,000,000 made to CAF could not be confirmed.

Other Matter

310. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024.

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Basis for Conclusion

311. Payment of Salaries Outside Integrated Payroll and Personnel Database

The statement of receipts and payments reflects compensation of employees' amount of Kshs.299,394,201 which include salaries amounting to Kshs.26,035,200 paid outside Integrated Payroll and Personnel Database (IPPD). No explanation was provided for the processing of the wages outside the IPPD system. This was contrary to Section 1.5.1 of the Treasury Guidelines on Financial Accounting Recording and Reporting Manual which requires that each County Government department is responsible for populating the IPPD with the information contained in these documents, issuing each appointee with a unique payroll number from the system and providing the appointee with a letter of appointment (with a reference to the PSB's letter of approval). The salaries, allowances and/or arrears of County Government staff are processed on the IPPD at every month end. Management did not provide justification for deviating from The National Treasury directive.

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

312. Non-Compliance with the Law on Staff Ethnic Composition

Review of staff payroll data for June, 2024 indicated that the County Assembly had two hundred and forty-three (243) permanent employees out of whom two hundred and forty (240) or ninety-nine percent (99%) were from the dominant ethnic community in the County. As previously reported, the County recruited one hundred and thirty-four (134) employees in the previous year who were all from the dominant community translating to 100%. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which states that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least 30% of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

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

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

Analysis of the payrolls for the financial year ended 30 June, 2024 revealed that thirty-seven (37) employees received net pay of less than one-third of their basic salary. This was contrary to Part D(22) of County Human Resource Manual, 2013 which states that a public officer will be expected to retain a net salary of not less than 1/3 of his basic salary per month. The over commitment of salary may result to pecuniary embarrassment.

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

314. Non-Compliance with Fiscal Responsibility Requirement on Wage Bill

The statement of receipts and payments reflects compensation to staff amount of Kshs.299,394,201 which translates to 43% of the County Assembly total revenue amount of Kshs.706,717,023 for the year ended 30 June, 2024. The expenditure on wages and benefits therefore exceeded the 35% threshold prescribed by Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

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

315. Irregular Compensation of Employees

Note 4 to the financial statements reflects compensation of employees amount of Kshs.299,394,201. Included in this amount is Kshs.131,606,150 relating to basic salaries of permanent employees out of which an amount of Kshs.5,313,180 was paid to nine (9) officers of the County Assembly who were deployed to work at the Elgeyo/Marakwet County Assembly Catering Services Revolving Fund, a distinct entity from the County Assembly of Elgeyo/Marakwet.

In the circumstances, there was no value for money for Kshs.5,313,180 paid as salaries by the County Assembly.

316. Irregular Foreign Travel

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an expenditure amount of Kshs.341,223,397 in respect to use of goods and services which further includes an expenditure amounting to Kshs.19,980,224 for foreign travel. The foreign travel includes an amount of Kshs.1,600,618 and Kshs.805,797 incurred on attending training on Building Smart Cities and attending Government Performance Management Symposium in Dubai respectively all totalling Kshs.2,406,415. However, Management did not justify the foreign travel.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

317. Ineffective Internal Audit Function

The internal audit function at the County Assembly had only one (1) staff. This under-staffing inhibited proper functioning of the internal audit unit. In addition, the department did not provide a risk register during the period under review.

In the circumstances, the County Assembly may not have benefited from effective review of internal controls and risk management.

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COUNTY ASSEMBLY OF NANDI – NO.29

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

318. Unsupported Foreign Travel and Subsistence

The statement of receipts and payments reflects use of goods and services amount of Kshs.286,851,983 as disclosed in Note 5 to the financial statements. The expenditure includes an amount of Kshs.9,999,999 incurred on foreign travel and subsistence allowances in respect of thirteen (13) Members of County Assembly (MCAs). The MCAs travelled to Dubai to attend annual conference on integrating urban development, infrastructure and technological advancement towards smart cities and sustainable housing between 4 to 8 January, 2024.

Further, two (2) Members of County Assembly travelled to Germany from 17 June to 25 June, 2023 to attend Olympic World Games in Berlin and one (1) Member of County Assembly travelled to United Kingdom from 27 October to 5 November, 2023 to attend a program on performance management systems and localization of short-term development goals. However, Management did not provide the supporting documents such as minutes of the County Assembly Service Board meeting which approved the travel, signed attendance register, certificate of participation, back to office report, training program, justification that the trainings were not locally available or relevant approvals by the Human Resource Advisory Committee.

In the circumstances, the regularity, accuracy and completeness of the foreign travel and subsistence allowances amounting to Kshs.9,999,999 could not be confirmed.

319. Unsupported Training Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.286,851,983 which includes an amount of Kshs.29,483,711 in respect of training expenses as disclosed in Note 5 to the financial statements. However, payments amounting to Kshs.2,501,489 were not supported with invitation letters, nomination or approval letters to the participating staff, training programs for the training attended and workshop attendance registers, signed expenditure schedules with details of job groups and applicable rates, modes of transport used, and copies of certificates of completion or participation.

In the circumstances, the occurrence, accuracy and completeness of the training expenditure amounting to Kshs.2,501,489 could not be confirmed.

Other Matter

320. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues or given any explanation for failure to implement the recommendation as at 30 June, 2024.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

321. Recognition of Year-End Transactions

The statement of receipts and payments reflects total payments amounting to Kshs.851,322,029 out of which, an amount of Kshs.77,115,027 was paid after 30 June, 2024. The expenditure was backdated in the records of the County Assembly as incurred on 30 June, 2024. This was contrary to the International Public Sector Accounting Standards (Cash Basis) reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that, the accounts of the County Government entities shall record transactions which take place during a financial year running from 1 July to 30 June.

Further, Regulation 97(4) of the Public Finance Management (County Governments) Regulations, 2015 requires that; an actual cash transaction taking place after the 30 June, shall not, however, be treated as pertaining to the previous financial year even though the accounts for that year may be open for the purposes referred to in paragraphs (2) and (3) of this Regulation.

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

322. Non-Compliance with National Cohesion and Integration Act, 2008

The staffing level of County Assembly was two hundred and sixteen (216) officers. Audit analysis of the ethnic composition revealed that two hundred and four (204) officers were from the dominant ethnic community. This represented a majority of 94% of the entire staff composition. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community.

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

323. Payment of Salaries Outside Integrated Payroll and Personnel Database

The statement of receipts and payments reflects compensation of employees' amount of Kshs.488,496,593 which includes an amount of Kshs.555,240 paid to one (1) employee outside Integrated Payroll and Personnel Database (IPPD). No explanation was provided for the processing of the wages outside the IPPD system. This was contrary to Section 1.5.1 of The National Treasury Guidelines through the Financial Accounting Recording and Reporting Manual which requires that each County Government department is responsible for populating the IPPD with the information contained in these documents, issuing each appointee with a unique payroll number from the system, and providing the appointee with a letter of appointment. The salaries, allowances and/or arrears of County Government staff are processed on the IPPD at every month end.

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

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324. Non-Compliance with the One-Third of Basic Salary Rule

Audit review of the County Assembly payroll in the month of June, 2024 revealed that twenty-six (26) County Assembly employees were paid salaries below the one-third of basic pay rule contrary to Section 19(3) of the Employment Act, 2007.

In the circumstances, Management was in breach of law.

325. Lack of Prudence in the Use of Public Resources

During the financial year under review, the County Assembly spent an amount of Kshs.139,086,641 on domestic travel and subsistence allowances in comparison to Kshs.72,586,805 (2022/2023) representing 92% increase in the expenditure. Review of records revealed allowances amounting to Kshs.51,390,800 paid to Members and staff of the County Assembly for travels outside the County headquarters while attending various workshops, retreats, trainings and meetings. However, this was contrary to The National Treasury Circular No. 20/2015 which requires the Accounting Officers to ensure that all workshops and retreats with the majority of participants drawn from one duty station, are held within the precincts of the duty station. Further, some officers moved from their duty stations to other towns for the purpose of carrying out regular assignments relating to their job description that would ordinarily be done in their offices to save on subsistence allowances and conference facilitation charges.

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

326. Delay in Construction of Modern County Assembly Chambers, Offices and Auxiliary Amenities

The statement of receipts and payments reflects acquisition of assets amount of Kshs.61,437,062 which includes an amount of Kshs.55,285,061 in respect of construction of buildings as disclosed in Note 10 to the financial statements. Review of procurement records revealed that the contract for proposed construction of modern County Assembly Chambers, offices and auxiliary amenities was awarded to a contractor at a contract sum of Kshs.469,469,934 and a contract agreement entered into on 30 December, 2016 for a period of one hundred and six (106) weeks. As at 30 June, 2024, a total of Kshs.399,293,995 had been paid to the main contractor and sub-contractors representing 85% of the total original contract sum.

However, the following observations were noted;

i) The project architect granted the main contractor, seven (7) extension of time for a period of three (3) months until 17 April, 2024 resulting to a revised contract period of three ninety-five (395) weeks. However, physical verification in the month of October, 2024 revealed that the project was approximately 85% complete. Pending works included ceiling works at the chambers, external cladding, heating and air conditioning (HVAC) works at the chambers, electronic private automatic branch exchange (EPABX) installation and structured cabling works.

ii) The performance bond submitted by the main contractor expired on 1 June, 2022 and had not been renewed at the time of the audit.

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iii) Physical verification of the project in October, 2024, revealed that the main contractor was on site with few staff, with painting and plumbing works ongoing.

In the circumstances, value for money for the payment of Kshs.399,293,995 may not be realized due to delay in project completion.

327. Unconfirmed Procurement of Hotel and Conferences Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.286,851,983 as disclosed in Note 5 to the financial statements which includes an amount of Kshs.32,267,923 in respect of hospitality supplies and services which further includes payment of Kshs.4,049,110 towards hotel and accommodation services. Examination of the framework agreements between the service providers revealed that the agreements had been in place for more than three (3) years with no evidence of any value for money assessment undertaken to determine whether the terms designated in the framework agreements remains competitive. This was contrary to Section 114(2) of the Public Procurement and Asset Disposal Act, 2015 which states that the maximum term for the framework agreement shall be three years and, for agreements exceeding one year, a value for money assessment undertaken annually to determine whether the terms designated in the framework agreement remain competitive.

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

328. Omitted Insurance and Training Costs in the Procurement Plan

The statement of receipts and payments reflects use of goods and services amount of Kshs.286,851,983 as disclosed in Note 5 to the financial statements. The amount includes insurance and training costs amounting to Kshs.21,648,300 and Kshs.29,483,711, respectively which were not included in the annual procurement plan. This was contrary to Regulation 51(2) of Public Finance Management (County Governments) Regulations, 2015 which states that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on allocations and allotments from approved budgets.

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

329. Gaps in the Procurement Plan

Review of the Annual Procurement Plan revealed the following weaknesses;

i) The annual procurement plan was not approved by the County Assembly Service Board contrary to Regulation 40(4) of the Public Procurement and Asset Disposal Regulations, 2020.

ii) The schedule of the planned delivery, implementation or completion dates of all goods, works or services was not included in the procurement plan contrary to Regulation 41(b) of the Public Procurement and Asset Disposal Regulations, 2020.

iii) The plan did not indicate whether some procurements were to be procured within a single year period or under a multi-year period.

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iv) There was no indication whether any items could be aggregated for procurement as a single package or for procurement through any applicable arrangement for common user items.

v) The Annual Procurement Plan was not done in accordance with the format specified in Regulation 42 and the third schedule of the Public Procurement and Asset Disposal Regulations, 2020.

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

330. Ineligible Pending Bills Resolution Committee

Audit interview revealed that the County Assembly had not established an eligible pending bills committee to investigate ineligible pending bills. This led to no investigations regarding ineligible pending bills during the year under review. This was contrary to Intergovernmental Budget and Economic Council (IBEC) resolution of 18 June, 2019, that all County Governments are required to establish an ineligible pending bills resolution committee to verify and prioritize ineligible pending bills for payment.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

331. Weak Information Technology and Internal Control Environment

Review of the Information Technology Internal Controls revealed that Management had not developed an Approved Emergency Procedure, IT continuity and Disaster Recovery Plan which would support in case of disruption of service. Further, the County Assembly did not have an approved IT Strategic Committee, and IT Steering Committee which were important in performing the oversight function and formulation of policies to ensure that the IT investments and functions were directed towards achievement of the mandate of the County Assembly.

In the circumstances, the reliability and effectiveness of the County Assembly's Information Technology internal controls, risk management and governance could not be confirmed.

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COUNTY ASSEMBLY OF BARINGO – NO.30

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

332. Inaccuracies in the Financial Statements

332.1. Variances Between Financial Statements and the General Ledger

Review of the financial statements revealed variances between the financial statements and the general ledger or cash books as detailed in the table below:

Item	Financial Statements Amount (Kshs.)	Ledger/Cash Book Amount (Kshs.)	Variance (Kshs.)
Use of Goods and Services	369,112,241	367,865,941	1,246,300
Domestic Travel and Subsistence	166,922,073	161,234,441	5,687,632
Foreign Travel and Subsistence	49,630,979	57,187,945	(7,556,966)
Hospitality Supplies and Services	39,713,710	39,090,676	623,034
Bank Balances	801,977	596,168	205,809

332.2. Variance Between Financial Statements and Ledgers

The statement of receipts and payments reflects amounts of Kshs.429,680,162 and Kshs.369,112,241 that were at variance with the Integrated Financial Management Information System (IFMIS) amounts of Kshs.446,086,566 and Kshs.369,244,131 under compensation of employees and use of goods and services, resulting in unexplained and unreconciled variance of Kshs.16,406,404 and Kshs.131,890 respectively.

Management did not provide any explanation for the variances observed.

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

333. Transactions After Closure of the Accounting Period

The statement of receipts and payments reflects total payments balance of Kshs.882,569,472. Although the County Assembly made IFMIS postings before 30 June, 2024, the actual transactions analysis indicates that one hundred and twelve (112) transactions totalling Kshs.33,887,355 comprising of recurrent expenditure and development expenditure were made after the financial year cutoff date of 30 June, 2024. This is contrary to Regulation 97(4) of the Public Finance Management (County Governments) Regulations, 2015.

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

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334. Unsupported Borrowings and Transfer of Funds to Related Parties

The statement of receipts and payments reflects use of goods and services amount of Kshs.369,112,241 as disclosed in Note 3 to the financial statements. The balance includes an amount of Kshs.166,922,073 in respect of expenditure on domestic travel and subsistence. Review of records revealed that the County Assembly borrowed an amount of Kshs.4,935,421 from a local bank and an amount of Kshs.15,407,600 from the County Assembly of Baringo Members Car Loan and Mortgage Fund without any documentary evidence. In addition, the County Assembly advanced an amount of Kshs.1,500,000 to Members of County Assembly to purchase goats at Kimalel goat auction in December, 2023 without any supporting documentation or approvals.

In the circumstances, the accuracy, completeness and occurrence of the domestic travel and subsistence expenditure of Kshs.166,922,073 could not be confirmed.

Other Matter

335. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

336. Non-Compliance with County Assembly Staffing Regulations

The County Assembly has one hundred and twenty-six (126) staff members, which exceeds the approved staff establishment ceiling of one hundred (100) employees by twenty-six (26) staff members. The overstaffing not only contravenes regulatory requirements but also indicates a lack of adherence to proper personnel management practices within the County Assembly. This was contrary to the guidelines set by the Commissioner of Revenue Allocation (CRA) in letter Ref CRA/FA/01 Vol II (22) dated 28 June, 2018.

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

337. Non-Compliance with the Law on Ethnic Composition

Review of the County Assembly's personnel records during the year under review revealed that out of the one hundred and twenty-six (126) employees of the County Assembly, one hundred and three (103) staff or 82% were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulate that all public establishments shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

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

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338. Failure to Procure Using E-Procurement System

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.369,112,241 out of which payments amounting to Kshs.20,504,737 were made to various suppliers outside the e-Procurement module in IFMIS. This was contrary to the Executive Order No.2 of 2018 on procurement of public goods, works and services by public entities Ref. No. OP/CAB39/1A that requires all procurements to be undertaken through the e-Procurement system.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

339. There were no material issues relating to the effectiveness of internal controls, risk management and governance.

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COUNTY ASSEMBLY OF LAIKIPIA – NO.31

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

340. Unconfirmed Cash and Cash Equivalents Balance

The statement of financial assets and liabilities and as disclosed in Note 13 to the financial statements reflect cash and bank balance of Kshs.5,969,569 which was held in various bank accounts operated by the County Assembly. However, the balances were not supported by Board of Survey reports.

Further, the bank reconciliation statement for the Central Bank of Kenya development account for the month of June, 2024 reflected unpresented cheques amounting to Kshs.23,708,275. However, review of bank statements revealed that the cheques had been cleared and not unpresented as indicated in the reconciliation. In addition, the reconciliation reflected an amount of Kshs.23,629,377 being payments made in the bank that were not recorded in the cashbook. Management did not provide explanation for the failure to update the cashbook.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.5,969,569 could not be confirmed.

341. Unsupported Foreign Training Expenses

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services amount of Kshs.282,365,409 out of which an amount of Kshs.59,969,509 was incurred on foreign travel and subsistence expenses. Included in the travel expenses is an amount of Kshs.36,583,348 being allowances paid to staff and Members of the County Assembly for three (3) different trainings on Leadership, Committee Management, roles of the County Assembly Service Board and Liaison Committee roles and others in Arusha, Tanzania.

The following anomalies were however noted:

(i) The cost of the training amount of Kshs.7,119,000 was not included in the approved training budget for the year under review.

(ii) Minutes of the County Assembly Service Board approving the trainings outside the county were not provided for audit.

(iii) Management incurred an amount of Kshs.8,004,000 being training fees and conference cost, however, the County Assembly did not deduct withholding tax from the service provider.

In the circumstances, the accuracy and regularity of foreign travel and subsistence expenses of Kshs.59,969,509 could not be confirmed.

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Basis for Conclusion

342. Irregular Variation of Works

The statement of receipts and payments and Note 10 to the financial statements reflect acquisition of assets amount of Kshs.64,911,181. Included in the expenditure is an amount of Kshs.1,810,566 being payment to a contractor as additional payment for completion of a junkyard building whose original contract sum was Kshs.4,995,574. The net contract additions amounted to Kshs.1,391,076 which translates to 28% increase from the original price. This was contrary to Section 139 (4) (c) of the Public Procurement and Asset Disposal Act, 2015 which provides that the contract should be tendered separately if the variations exceed 25% of the original contract price.

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

343. Irregular Engagement of Casuals

The statement of receipts and payments reflects compensation of employees amount of Kshs.218,336,362. Review of the manual payroll for the casuals revealed that the casual employees of the County Assembly had been engaged for a period longer than three (3) months contrary to the County Assembly Human Resource Policies and Procedures Manual 2018 that Casual workers shall be engaged only on urgent short-term tasks with the approval of the County Assembly Service Board and that Casual workers shall not be engaged for more than three months.

In the circumstances, Management was in breach of the County Assembly Human resource policies and procedures.

344. Non-Provision of Insurance Cover

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflect acquisition of assets (Refurbishment of non-residential buildings) amount of Kshs.64,911,181. Included in the expenditure is an amount of Kshs.6,910,753 incurred for the supply and installation of Lift a Car at the Assembly plus paint works. However, the contractor did not provide, in the joint names of the employer and the contractor, an insurance cover from the start date to the end of defects liability period contrary to the requirements outlined under Clause 30.3 of the contract agreement between the County Assembly and the supplier of the lift car.

In the circumstances, the value for money of the contract could not be confirmed.

345. Payment of Salaries Outside Integrated Payroll and Personnel Database System

The statement of receipts and payments and as disclosed in Note 4 to the financial statement reflects compensation of employees amounting to Kshs.218,336,362. Included in the expenditure is an amount of Kshs.25,442,629 paid as 12 months' Salary for various Members of the County Assembly and other staff. However, no explanation was provided why these salaries were not processed through the Integrated Payroll and Personnel

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Database (IPPD) system but processed manually, and it was not possible to confirm whether statutory deductions were deducted and remitted.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

346. Lack of an Asset Management Policy

Review of County Assembly's operations revealed that there was no Asset Management Policy and Assets Management Unit within the County Assembly. Management is charged with the responsibility of ensuring that there are adequate systems and processes to plan, procure, account, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury contrary to Section 149(2) of Public Finance Management Act, 2012.

In the circumstances, existence of effective measures on the management of assets could not be confirmed.

347. Ineffective Internal Audit Function

The County Assembly has an Internal Audit Department in place performing its function as per Regulation 153(1) of the Public Finance Management (County Governments) Regulations, 2015. However, the audit reports are not responded to by the relevant departments. Review of the Audit Committee minutes revealed that the Committee was unable to review the annual financial statements for financial year 2022/2023, because at the time of the meeting the Committee had not received the response from the Finance department on the issues raised. Further, during the audit, the Head of the Internal Audit was not positioned in the top management in the organization staff establishment as per Kenya Gazette Notice No. 2690 on Audit Committee guidelines for County Governments.

In the circumstances, effectiveness of the Internal Audit to undertake functions without Management interference could not be confirmed.

348. Lack of Organizational Strategic Plan, Disaster Recovery Plan and Risk Management Framework

Review of documents provided for audit and discussion with Management revealed that the County Assembly has not developed a new organizational strategic plan for the period 2023 – 2027. The term for the currently used strategic plan lapsed in the year 2022. As a result, it may not be possible for the County Assembly to focus on their goals and objectives. Further, there was no approved Disaster Recovery Plan and Risk Management Policy in place. The risk management framework was at draft level. Without a Disaster Recovery Plan, the organization may not recover from an interruption.

In the circumstances, the County Assembly's ability to recover from disaster and services interruption could not be confirmed.

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349. Lack of ICT Steering Committee and ICT Strategic Plan

Review of the Information Communication Technology (ICT) environment and documents provided revealed that the County Assembly had an approved ICT Policy in place. However, the County Assembly lacked an ICT Steering Committee and an ICT Strategic Plan to formulate policies and advice on ICT investment priorities.

In the circumstances, the County Assembly ICT governance structures to safeguard public resources could not be confirmed.

350. Weaknesses in Preparation and Maintenance of Cash Books

The County Assembly had three bank accounts as at 30 June, 2024 as disclosed in Note 13 to the financial statements with two maintained at Central Bank of Kenya for recurrent and development expenditure and one at a commercial bank for operations. However, the two bank accounts had their cashbooks maintained in excel which could easily be edited and manipulated instead of system generated or manual hard copy cashbooks.

Further, the cashbooks were not correctly updated with proper narrations of payees whereby payments of Kshs.2,111,647 in the Central Bank of Kenya recurrent accounts were briefly described as payments to the County Assembly and no further narrations. It was not possible to confirm the reasons why and who the funds were paid to.

In the circumstances, effectiveness in maintenance of the cash books could not be confirmed.

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COUNTY ASSEMBLY OF NAKURU – NO.32

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

351. Inaccuracies in the Pending Bills Balance

Annex 1 to the financial statements reflects pending bills balance of Kshs.88,968,678. However, the vote book as at 30 June, 2024 reflects an outstanding commitment balance of Kshs.23,043,996 which constitutes development balance of Kshs.5,965,259 and recurrent balance of Kshs.17,078,737 resulting to an unexplained variance of Kshs.65,924,682.

In the circumstances, the accuracy and completeness of the pending bills balance of Kshs.88,968,678 as at 30 June, 2024 could not be confirmed.

352. Unsupported Compensation of Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.461,583,391. However, review of the monthly payroll processes revealed that the Nakuru County Assembly maintains the Integrated Payroll and Personnel Database (IPPD) system and an off-shelf payroll systems for payment of monthly salaries and allowances. The County Assembly had a total of four hundred and three (403) staff out of whom three hundred and ninety-two (392) were maintained in Integrated Payroll and Personnel Database Payroll and eleven (11) in off the shelf payroll system in breach of The National Treasury Circular No.13/2019 dated 28 August, 2019 which requires that the allocation of personnel emoluments must be supported by Integrated Payroll and Personnel Database (IPPD) and each Ministry, Department and Agency (MDA) will be required to provide this information to support personnel requirements.

Further, the Compensation of Employees' costs includes salary payments of Kshs.12,017,020 in respect of officers on secondment to Nakuru County Executive who ought to have been paid by the organization in which they were seconded. In addition, no evidence was provided to confirm that the County Assembly received refunds for the paid salaries.

In the circumstances, the accuracy and completeness of the compensation of employees' amount of Kshs.461,583,391 could not be confirmed.

Other Matter

353. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness which remained unresolved as at 30 June, 2024. Management did not provide explanation for delay in resolving the issues.

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Basis for Conclusion

354. Irregular Payment of Subscriptions

The statement of receipts and payments reflects use of goods and services amounting to Kshs.584,386,256. This amount Includes subscriptions to Professional and Trade Bodies expenditure amount of Kshs.3,699,161 as disclosed in Note 4 to the financial statements. The expenditure of Kshs.3,699,161 includes payments of Kshs.750,000 to Society of Clerks-At-The Table (SOCATT) and Kshs.2,500,000 to County Assemblies Forum (CAF) as annual subscription fees. Although the expenditure was budgeted for, audit examination observed that there is no existing law or policy in place authorizing the said payments of subscription fees. In addition, no verifiable document was presented for audit to support the two organizations' constitutional mandates.

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

355. Non-Compliance with Guidelines on Acting Positions

Review of the Human Resource records revealed that five (5) County Assembly staff were offered an acting appointment for various positions by the County Assembly Service Board (CASB) on 20 February, 2023 for a period of one year. It was, however, noted that the staff had been acting in the positions since February, 2023 and the six (6) months ended in September, 2023 hence the allowances paid to them amounting to Kshs.1,266,399 for the preceeding nine (9) months were irregularly paid. This was contrary to Section 34(3) of the Public Service Commission Act, 2007 which states that an officer may be appointed in an acting capacity for a period of at least thirty (30) days but not exceeding a period of six (6) months.

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

356. Non-Compliance with National Cohesion and Integration Act, 2008

Audit of the human resource records revealed that the County Assembly of Nakuru had one hundred and twenty-six (126) staff, out of whom sixty-seven (67) or 53% were from same ethnic community. Further, the Key Management had eleven (11) members out of whom nine (9) or 81% were from one ethnic community.

In addition, during the year under review, Nakuru County Assembly recruited six (6) employees for the position of waiters, clerical officers, supply chain management and chef. Out of the six (6) total number of staff recruited, five (5) or 83% were from the dominant community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which requires that all public establishments shall seek to represent the diversity of the people of Kenya in employment of staff and that no public establishment shall have more than one third of its establishment from the same ethnic community and also Section 65(i)(e) of the County Government Act, 2012.

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

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Basis for Conclusion

357. Inadequate Staffing of the Internal Audit Department

Review of the staff establishment of the County Assembly revealed that the Internal Audit Department was understaffed having only two (2) staff instead of six (6) staff as per the County Assembly staff establishment. The gap includes, Assistant Director, Principal Internal Auditor and Chief Internal Auditor.

In the circumstances, the optimum efficiency and effectiveness of the Internal Audit Department could not be achieved.

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COUNTY ASSEMBLY OF NAROK – NO.33

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

358. Variances Between Financial Statements and Bank Statement Transactions

The financial statements reflect amounts that differ with Internet Banking as detailed below;

Particulars	Financial Statements (Kshs)	Payment per Bank Statement (IB Balances) (Kshs)	Variance (Kshs)
Compensation of Employees	499,174,588	536,781,809	(37,607,221)
Use of Goods and Services	264,596,863	203,607,403	60,989,460
Transfer to other Government Entities	90,000,000	45,834,600	44,165,400
Acquisition of Assets	11,260,562	10,648,681	611,881
Provision for Encumbrance	0	4,293,564	(4,293,564)
Contractors' Retention Money	0	1,119,310	(1,119,310)
General Withholding Tax	0	2,157,617	(2,157,617)
VAT Withholding	0	3,935,282	(3,935,282)

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

359. Misclassification of Expenditures

Review of various components of the financial statements against Integrated Financial Management Information System (IFMIS) records, ledgers provided and Internet Banking records showed that various items were charged to incorrect accounts. Details are as shown in the table below:

Expenditure Item	Account Charged	Correct Account to be Charged	Amount (Kshs)
Payments to Local Authorities Provident Fund	Contractual Employees	Employer Contributions to Local Government Security Fund	2,960,363
Payments to Local Authorities Provident Fund	Leave allowance	Employer Contributions to Local Government Security Fund	3,328,493
Insurance Costs	Daily Subsistence Allowance	Insurance Costs	4,576,705

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Expenditure Item	Account Charged	Correct Account to be Charged	Amount (Kshs)
Ward Office Expenses	Rents and Rates - Non-Residential	Constituency Office Expenses	928,288
Purchase of ICT Networking and Communication Equipment	Refined Fuel	Purchase of ICT Networking and Communication Equipment	235,862
Payments to Local Authorities Provident Fund	Gratuity to MCAs	Employer Contributions to Local Government Security Fund	3,376,517
Domestic travel and Subsistence	House Loans to MCAs	Domestic Travel and Subsistence	834,600
Legal Fees	Contractors' Retention Money	Legal Fees	1,119,310
Purchase of Uniform and Clothing	General Withholding Tax	Purchase of Uniform and Clothing	2,157,617
House Loans to MPS	Basic Salaries	House Loans to MCAs	45,000,000
Purchase of ICT Networking and Communication Equipment, Purchase of Uniform and Clothing, Legal fees	Withholding Tax	Purchase of ICT Networking and Communication Equipment, Purchase of Uniform and Clothing, Legal fees	3,705,371

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

360. Payments in Internet Banking not in IFMIS

The statement of receipts and payments reflects total payments amounting to Kshs.865,032,013 resulting from payments recorded in the Internet Banking (IB). Review of both IB payments and IFMIS for both recurrent and development expenditure revealed that payments amounting to Kshs.47,586,875 could not be traced in the IFMIS. The payments have not been explained nor reconciled.

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

361. Voided Transactions-Payments

The statement of receipts and payments reflects total payments amounting to Kshs.865,032,013 from payments recorded in IB. Review of total payments in the IFMIS for both recurrent and development expenditure revealed a total of Kshs.1,073,938,841 resulting to voided transactions amounting to Kshs.208,906,828. Management did not explain the circumstances leading to the occurrence of voided transactions of such magnitude.

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In the circumstances, the accuracy and regularity of the total payments of Kshs.208,906,828 could not be confirmed.

362. Irregular Maintenance of Manual Payroll

Review of expenditure on employees revealed that the County Assembly operated two payroll systems; the Excel manual payroll system and the Integrated Payroll and Personnel Database (IPPD). However, monthly gross salary payments totalling Kshs.70,326,172, were made to employees through manual payroll.

In the circumstances, the accuracy and regularity of manual payroll payments of Kshs.70,326,172 could not be confirmed.

363. Irregular Legal Expenses

Review of records in support of legal expenses showed that payments totalling Kshs.5,220,800 were paid to advocates for provision of legal professional services preparation of applications to Land Control Board to charge, obtaining charges, lodging charge documents, registration of charge documents and stamp duty charges for loans issued MCAs, Clerk and Speaker under the County Assembly of Narok Mortgage Fund. No explanation on why the charges were incurred by the County Assembly yet they belong to the County Assembly of Narok Mortgage Fund. The payment was not supported by relevant procurement documents such as a signed contract and itemized fee notes.

In the circumstances, the accuracy of legal expenses could not be confirmed.

364. Non-Disclosure of Pending Accounts Payable

Other disclosure Notes to the financial statements reflects pending accounts payable balance of Kshs.17,915,131. However, review of records revealed that the County Assembly owed the Local Authority Provident Fund (LAPFUND) contributions in arrears (principal amount and interest) of Kshs.103,647,243 out of which an amount of Kshs.34,843,561 was paid leaving a balance of Kshs.68,803,682 which was not disclosed in the financial statements. The contributions due to Local Authorities Pensions Trust (LAPTRUST) of Kshs.11,104,350 were not remitted and had accrued interest amounting to Kshs.70,678,826 as at 30 June, 2024. The amount was similarly not disclosed in the financial statements submitted for audit.

Further, accounts payable balance includes suppliers of services amount of Kshs.28,880,255 which further includes a balance of Kshs.4,500,000 payable to a law firm for legal services. However, the fee notes for the legal services did not indicate the nature of services offered. Further, procurement records and signed contract for the provision of the legal services were not provided for audit. It was not possible to confirm whether the legal fees commitment was as per the rates prescribed by the Law Society of Kenya. In addition, the documentary evidence in support of pending accounts payables were not provided for audit.

Failure to settle the pending bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

In the circumstances, the accuracy and regularity of the legal fees could not be confirmed.

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Other Matter

365. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Lawfulness and Effectiveness in use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

366. Non-Compliance with the Law on the Number of Members

Review of the records revealed that the County Assembly had forty-nine (49) Members of the County Assembly (MCAs) thirty (30) elected and nineteen (19) nominated against the set limit of forty-seven (47) MCAs as per Circular No.CRA/CSO/CMG/9/VOLV/59 dated 21 October, 2020 on Advisory of Ward offices operation costs from the Commission on Revenue Allocation resulting in excess expenditure for Ward operation expenses by Kshs.2,839,998.

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

367. Irregular Payment of Transport Allowance

During the year under review, the County Assembly paid transport allowance to Members of County Assembly and senior County Assembly staff at the rate of Kshs.20,000 and Kshs.10,000 respectively. This allowance was not approved by any Salaries and Remuneration Commission (SRC) circular or ratification.

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

368. Irregularities in the Procurement and Award of Contract

During the year under review, it was observed that the insurance services of Kshs.25,846,362 were procured outside the e-procurement system thus contradicting Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020.

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

369. Non-Compliance with the One-Third of the Basic Salary Rule

During the year under review, one hundred and seventy-seven (177) employees earned a net salary of less than one-third (1/3) of their basic salary. This was contrary to Section D22(2) of the County Public Service Human Resource Manual and Section 19(3) of the Employment Act, 2007 which requires that the total amount of deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay. Management has not given explanation for failure to comply with the law.

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

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370. Non-Remittance of Statutory Deductions

Review of documents provided for audit revealed that Management deducted pension totalling Kshs.10,973,499 for Local Authorities Pensions Trust. However, no documentary evidence was provided to support remittance of the deductions.

Further, contributions to Local Authorities Pensions Trust Fund (LAPTRUST) of Kshs.24,272,287 as at 30 June, 2014. The amount has been attracting interest of 3% amounting to Kshs.70,678,826 as at 30 June, 2024. The amount was not disclosed as pending accounts payable.

In the circumstances, value for money could not be confirmed on the interest that is avoidable.

371. Non-Compliance with Law on Non-Current Assets

Annex 4- summary of non-current asset register to the financial statements reflects the asset balance of Kshs.347,089,814. The balance includes land, buildings and structures of Kshs.293,216,401. However, the value of land on which the buildings and structures stand was not disclosed. This was contrary to Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires Counties to record each parcel of land and each building and the terms on which it they are held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms and maintenance contracts. Further, the title deeds of the land was not provided for audit.

Further, included in the summary of non-current asset balances is transport equipment valued at Kshs.17,840,000 which were grounded for which Management had not indicated plans for their repairs and putting into use.

In the circumstances, the existence of an effective mechanism to safeguard the assets could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

372. Improper Management of Ward Operation Expenses

The statement of receipts and payments reflects expenditure on use of goods and services totalling Kshs.264,596,863, which includes Ward Operation expenses of Kshs.17,818,681. However, review of the imprest surrender vouchers revealed the following: -

(i) Ward office cashbooks, bank statements and analysis of the memorandum cash books for all wards and nominated Members of County Assembly showing receipt and utilization of funds were not provided for audit. This was contrary to Regulation 93(15) of the Public Finance and Management (County Governments) Regulations, 2015, which states that when the imprest holder needs to have his or her funds replenished, he or she shall send an abstract and analysis of his or her

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memorandum cash book, plus originals of the supporting payment vouchers to accounts division.

(ii) There was no structure for procurement of most of the common user items in these wards. As a result, the wards had uncontrolled and unguided spending on these items, each sourcing directly for the items.

(iii) Some of the receipts used for surrender of the funds were not serialized, did not bear the dates, did not bear the official details of the merchants from whom the wards procured items and they did not bear the tax registration details of the merchants and were not accompanied by delivery notes, thereby possibly denying the Government tax revenue and casting doubt whether the goods were received by the wards and taken on charge.

In the circumstances, existence of effective internal controls on Ward offices expenses could not be confirmed.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

373. Unsupported Expenditure on Domestic Travel and Subsistence

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflect use of goods and services amounting to Kshs.437,580,806. Included in the expenditure is Kshs.228,825,386 for domestic travel and subsistence which includes an amount of Kshs.1,000,000 paid for the purchase of air tickets which was not supported with invoices, list of officers, the cost of each ticket and proof of travel.

In the circumstances, the accuracy of domestic travel and subsistence amounting to Kshs.1,000,000 could not be confirmed.

Emphasis of Matter

374. Budgetary Control and Performance

The statement of comparison of budget and actual amounts; recurrent and development reflects total budgeted receipts and actual on comparable basis of Kshs.1,077,243,556 and Kshs.887,398,897 respectively, resulting in an under-funding of Kshs.189,844,659 or 18% of the budget. However, the County Assembly spent Kshs.884,884,189 against actual receipts of Kshs.887,398,897 resulting in an under-utilization of Kshs.2,514,708.

The under-funding affected implementation of the planned projects and programs and may have impacted negatively on service delivery to the public.

375. Pending Accounts Payable

Annex 1 to the financial statements reflects pending accounts payable amount of Kshs.98,824,284 some dating back to December, 2022 which ought to have been settled in the prior years and during the year under review. No satisfactory explanation was given for failure to settle the pending bills despite the County Assembly closing the year with a bank balance of Kshs.26,029,864.

Failure to settle the pending bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

My opinion is not modified in respect of these matters.

Other Matter

376. Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given any explanation

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for the failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

377. Stalled Projects

Review of project files and physical verification of projects conducted in September, 2024 revealed that three (3) projects amounting to Kshs.13,310,680 started in the financial year 2021/2022, were incomplete as the contractors were not on site and the contract period had ended as detailed below:-

(i) The contract for installation of electric fence, solar water heating system and fire extinguishers at the Speaker's residence was awarded a contract sum of Kshs.4,705,708 and be completed in twelve (12) months from the contract date of 9 February, 2022. As at the time of audit in September, 2024, the contractor had been paid a total of Kshs.2,621,853 for materials on site with an estimated completion level of 30%, the project had stalled, and the contractor was not on site.

(ii) The contract for construction of perimeter wall, fencing and associated works at the Speaker's residence was awarded a contract sum of Kshs.10,844,260 and was to be completed in twenty-four (24) months which expired on 26 February, 2023. As at the time of audit, the contractor had been paid a total of Kshs.8,645,520 with an estimated completion level of 89%. Further, works including plastering of fence, internal walls, sentry box, greening and landscaping and car sheds had not been completed and the contractor was not on site.

(iii) The contract for installation and testing of IP video surveillance system at the Speaker's residence was awarded a contract sum of Kshs.4,804,802 and be completed in twelve (12) months from the contract date of 16 February, 2022. As at the time of audit, the contractor had been paid a total of Kshs.2,043,307 for materials on site, cabling and fixing of CCTV cameras in the main house with an estimated completion level of 30% and the contractor was not on site.

There is a likelihood of cost escalation for the stalled projects and the value for money on the amount of Kshs.13,310,680 paid to various contractors could not be confirmed due to delay in project completion.

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

378. Receipt of Exchequer Payments After the Cut-off Period

Review of revenue and expenditure records indicated that exchequer receipts totalling Kshs.145,537,494 were received in the month of July, 2024. In addition, Kshs.27,005,817 was paid after 30 June, 2024 for acquisition of assets. This was contrary to Regulation 97(1) of Public Financial Management (County Governments) Regulations, 2015 which

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provides that, the accounts of the County Government entities shall record transactions which take place during a financial year running from the 1st July to the 30th June.

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

379. Avoidable Expenditure

A limited company was contracted to provide overhaul, repair and maintenance services of County Assembly toilets at a contract sum of Kshs.1,786,922. However, the County Assembly declined to pay the company for non-completion of the works. The company sued the County Assembly for failure to pay and alleged that they had completed the work by producing a completion certificate in court. The Court ruled in favor of the company and ordered the County Assembly to pay an amount of Kshs.3,481,589 inclusive of interest of Kshs.1,694,667 and additional legal fees of Kshs.580,000. At the time of audit in September, 2024, the amount had not been paid and was not disclosed as a contingent liability in the financial statements.

In the circumstances, the value for money on the interest and additional legal fees paid by the County Assembly could not be confirmed.

380. Non-Compliance with National Cohesion and Integration Act, 2008

Review of the human resource records indicated that out of two hundred and thirty-four (234) County Assembly staff, one hundred and seventy-six (176) or approximately 75% were from the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which state that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of it's staff from the same ethnic community. Further, out of two hundred and thirty-four (234) staff, a total of one hundred and sixty (160) or approximately 68% were male contrary to Section B 22 (2) of the Human Resource Policies and Procedures Manual for the Public Service May, 2016 states that the Government will endeavor to have a gender balanced Civil Service by ensuring that not more than 2/3 of positions in its establishment are filled by either gender.

In addition, review of human resource records revealed that out of the two thirty-four (234) staff, the County Assembly had six (6) employees with disabilities representing approximately 3% of the workforce. This was contrary to Section 13 of Persons with Disabilities Act, 2003 which provides that the Council shall endeavor to secure the reservation of five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities.

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

381. Salaries Paid Outside the Integrated Payroll and Personnel Database System

Review of payroll records revealed that thirty-four (34) staff of the County Assembly were not in the Integrated Payroll and Personnel Database (IPPD) system. The staff were paid salaries using a manual (Excel format) payroll system outside the IPPD system. The Clerk of the County Assembly wrote a request dated 16 January, 2024 to the Principal Secretary in the State Department of Public Service for the Staff to be issued with personal numbers.

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However, no response had been received from the State Department at the time of Audit in September 2024. This was contrary to the National Treasury circular No.13/2012 which require allocation in personnel emoluments to be processed through Integrated Payroll and Personnel Database.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

382. Failure to Provide Implementation Status Report

During the year under review, a meeting was held by the Committee on Implementation which scrutinizes resolutions of County Assembly petitions and undertakings given by the County Executive Committee. However, no implementation status report was provided for audit review.

In the circumstances, lack of oversight from the Committee on Implementation may lead to non-performance from other committees leading to poor service delivery to the public.

383. Un-Updated Assets Register

The summary of non-current assets register and as disclosed in Annex 4 to the financial statements reflects historical cost of non-current assets balance of Kshs.565,889,788 as at 30 June, 2024. However, the fixed assets register balance excludes the cost of two parcels of land on which the County Assembly office block and the Speaker's residence have been constructed on.

In the circumstances, the existence of effective internal controls in respect to non-current assets could not be confirmed.

384. Failure to Develop a Hansard Operational Policy

The County Assembly had not developed a policy to guide in service delivery as required by standing order number 221 on functions of Hansard Department which comprises development and maintenance of policies, rules, standards, and procedures governing Hansard production for efficiency of the unit.

In the circumstances, the efficiency in coordination of activities in the Hansard Department could not be confirmed.

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COUNTY ASSEMBLY OF KERICHO – NO.35

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

385. There were no material issues noted during the audit of the financial statements.

Other Matter

386. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues or given any explanation for failure to implement the recommendation as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

387. Non-Compliance with Material Cohesion and Integration Act, 2008

Review of human resource records revealed that during the year under audit, the County Assembly had ninety-eight (98) employees out of whom ninety-three (93) or 95% of the employees were from the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that, no public establishment shall have more than one third of its staff from the same ethnic community.

Further, eight (8) new employees were recruited in the year under review. However, all the newly recruited employees were from one dominant ethnic community. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which provides the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

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

388. Failure to Procure Using E-Procurement

The statement of receipts and payments reflects use of goods and services amount of Kshs.436,581,257 as disclosed in Note 5 to the financial statements. The amount includes expenditure totalling Kshs.5,183,088 incurred on procurement of goods and services. Review of records revealed that these procurements were not undertaken through e-procurement module in IFMIS. This was contrary to Executive Order Number 2 of 2018 on procurement of public goods, works and services by public entities Reference Number OP/CAB39/1A that requires all procurements be undertaken through e-procurement portal.

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

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389. Irregular Procurement of Legal Services

Review of records revealed that two law firms were paid legal fees amounting to Kshs.2,671,444. However, the legal services were directly procured and the reasons for use of direct procurement was not provided. Further, the procurement was not approved by the Clerk, the prices were not negotiated and was not reported to the Public Procurement Regulatory Authority. This was contrary to Regulation 90 of the Public Procurement and Asset Disposal Regulations, 2020 which provides that where an accounting officer uses direct procurement, the procuring entity shall record the reasons upon which it makes a determination that the relevant condition were met, the accounting officer shall, within fourteen days after the notification of the award of the contract, report any direct procurement of a value exceeding five hundred thousand shillings to the Public Procurement Regulatory Board, and any direct procurement shall require the prior approval of the accounting officer in writing except under urgent need. Further, fee notes detailing the services rendered were not provided for audit review.

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

390. Stalled Construction of the Speaker's Residence

The County Assembly entered into a contract for the construction of the Speaker's residence at a contract sum of Kshs.34,595,580 with contract commencement date of 2 August, 2019 and completion date of 28 January, 2020. Review of the contract records revealed that the project completion date had been extended six (6) times. However, the extension was granted after the expiry of the contract period and the project was still not complete.

Further, the Project's monthly progress reports were not prepared. This was contrary to Regulation 140(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the Head of Procurement Function to prepare a monthly progress report of all procurement contracts and submit the same to the accounting officer.

In addition, the contractor was not able to complete the project and a certificate of practical completion "As Is" was issued on 16 June, 2023. However, physical verification of the project in September, 2024 revealed that the internal and external finishes, plumbing, tiling, electrical works, interior fittings and painting valued at Kshs.16,261,230 were still outstanding resulting to an increase in cost amounting to Kshs.11,369,710 or 33%. This was contrary to the Regulation137(e) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that in managing complex and specialized procurement contracts, the requirements of the contract shall be closely monitored to ensure that there are no deviations or risks and those identified dealt with in time.

In the circumstances, the public may not obtain value for money from payments made in respect of the delayed project.

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

Basis for Conclusion

391. There no material issues noted on the effectiveness of internal controls, risk management and governance.

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COUNTY ASSEMBLY OF BOMET– NO.36

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

392. There were no material issues noted during the audit of the financial statements.

Emphasis of Matter

393. Late Exchequer Releases

The statement of receipts and payments reflects transfers from the County Revenue Fund (CRF) amounting to Kshs.973,829,237 as disclosed in Note 1 to the financial statements. However, the amount includes late disbursements totalling Kshs.73,257,458 which was received on 4 July, 2024.

The late disbursement of Exchequer affects timely implementation of approved projects or activities which may impact negatively on service delivery by the County Assembly.

My opinion is not modified in respect of this matter.

Other Matter

394. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

395. Salaries Paid Outside Integrated Payroll and Personnel Database

Review of the payroll records revealed that salaries amounting to Kshs.72,335,009 were processed and paid to fifteen (15) employees and Members of the County Assembly outside the Integrated Payroll Personnel Database (IPPD) system contrary to The National Treasury Circular No. 13/2012, dated 28 August, 2019 which requires all allocations on personnel emoluments to be supported by IPPD.

In the circumstances, Management was in breach of The National Treasury Circular.

396. Non-Compliance with One-Third of the Basic Salary Rule

Review of the monthly payroll records revealed that nine (9) employees earned a net salary which was less than one-third (1/3) of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that the total amount of deduction of the wages of an employee shall not exceed two-third (2/3) of such wages.
In the circumstances, Management was in breach of the law.

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397. Non-Compliance with Law on One-Third Gender Rule and Recruitment of Staff Composition

Records provided revealed that the County Assembly had seventy-seven (77) employees out of which twenty-one (21) or 27% were female. This was contrary to Part B.26 (2) of the County Public Service Human Resource Manual May, 2013 which states that the County Government shall endeavor to have a non-discrimination in the County Public Service by ensuring that not more than two-thirds (2/3) of vacant posts are filled by either gender in the County Public Service.

Further, the County Assembly recruited ten (10) new officers at the entry level out of which two (2) were of the female gender representing twenty percent (20%) and eight (8) were of the male gender representing eighty percent (80%) of the total. All the appointed officers were from the same dominant ethnic community. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which requires that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

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

398. Irregular Payment of Subscriptions

The statement of receipts and payments and as disclosed in Note 5 reflects use of goods and services amounting to Kshs.340,464,988. The amount includes other operating expenses totalling Kshs.76,011,025 which further includes subscription fees to the County Assemblies Forum (CAF) and Society of Clerks-at-the-Table (SOCATT) totalling Kshs.1,500,000 and Kshs.1,200,000, respectively. However, the entities are not established or anchored on any law. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in the Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

399. Delayed Construction of County Assembly Chambers

The statement of receipts and payments and as disclosed in Note 10 reflects acquisition of assets amounting to Kshs.183,994,075. The amount includes construction of buildings totalling Kshs.87,338,932 which further includes payments totalling Kshs.80,048,386 in respect of construction works at the County Assembly Main Chambers. Review of contract records revealed that a local contractor was awarded the tender for the construction of the main chambers at a contract sum of Kshs.473,477,177 for a period of one hundred and sixty (160) weeks commencing 19 March, 2020 and expected completion date of 14 April, 2023. Payments totalling Kshs.444,499,327 or ninety four percent (94%) of the contract sum had been paid as at 30 June, 2024. However, physical inspection carried out on 5 September, 2024, more than sixteen (16) months after the expected completion date, revealed that installation and commissioning of lifts, interior design and decoration of the debating chambers all valued at Kshs.32,870,000 had not been completed.

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In the circumstances, value for money on the expenditure amounting to Kshs.444,499,327 in respect of construction works in the County Assembly Main Chambers could not be confirmed.

400. Delayed Construction of the Speaker's Residence

The statement of receipts and payments and as disclosed in Note 10 reflects acquisition of assets amounting to Kshs.183,994,075. The amount includes construction of buildings totalling Kshs.87,338,932 which further includes payments totalling Kshs.7,290,546 in respect of the construction and completion of speaker's residence. Review of records revealed that the tender for the construction of the Speaker's residence was awarded on 13 January, 2022 at a cost of Kshs.34,500,000 for a period of twenty-four (24) weeks ending 16 September, 2022.

The contractor had been paid a total of Kshs.16,539,866 or forty eight percent (48%) of the contract sum as at 30 June, 2024. However, physical inspection in the month of September, 2024, being over ten (10) months after the extended completion date of 7 November, 2023, revealed that the project was incomplete and the contractor was not on site.

In the circumstances, value for money on the expenditure of Kshs.16,539,866 in respect of the completion of speaker's residence could not be confirmed.

401. Delayed Construction of Perimeter Wall and Gate House at the Main County Assembly

The statement of receipts and payments and as disclosed in Note 10 reflects acquisition of assets amounting to Kshs.183,994,075. The amount includes construction and civil works totalling Kshs.15,176,129 which relates to construction of perimeter wall and gate house at the main County Assembly. Records provided revealed that the Assembly entered into a contract for the construction of a perimeter wall and a gate house at the main County Assembly at a contract sum of Kshs.26,615,540 for a period of twenty-two (22) weeks ending 1 November, 2023. The contractor had been paid a total of Kshs.15,176,129 or fifty seven percent (57%) of the contract sum as at 30 June, 2024. However, the length of the perimeter wall was not specified in the bill of quantities limiting the determination of the scope of works. Physical inspection carried out in September, 2024, eleven (11) months after the completion date, revealed that the perimeter wall and the gate house were incomplete and the contractor was not on site.

Further, Management had issued a notice to the contractor of intended termination of the contract on the basis of unsatisfactory progress in the execution of the works. However, no legal advice has been sought on the same contrary to Regulation 141(5) of the Public Procurement and Asset Disposal Regulation, 2020 which states that a procuring entity shall seek legal advice or clearance from the Attorney-General or such person designated in writing by the Attorney-General before terminating a contract under the Act or these Regulations.

In the circumstances, value for money on the payments amounting to Kshs.15,176,129 incurred on the construction of a perimeter wall and gate house could not be confirmed.

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402. Delayed Installation of Hansard Production and Audio-Visual System

The statement of receipts and payments and as disclosed in Note 10 reflects acquisition of assets amounting to Kshs.183,994,075. The amount includes purchase of specialized equipment and machinery totalling Kshs.31,820,239 which relates to the contract for supply, installation, integration, testing and commissioning of a Hansard production and audio-visual system. Records audited revealed that the County Assembly awarded the tender for supply, installation, integration, testing and commissioning of a Hansard Production and Audio-Visual System at a contract sum of Kshs.101,061,404 on 9 May, 2024 for a period of eight (8) weeks with an expected completion date of 9 July, 2024. The contractor had been paid Kshs.31,820,239 or thirty one percent (31%) of the contract sum as at 30 June, 2024. However, physical inspection in the month of September, 2024 revealed that the system had not been installed, two months after the contract period had elapsed.

Further, the project plan encompassing the activities specified in the contract, the implementation schedule and the progress reports summarizing results accomplished during the period was not provided for audit review. This was contrary to Clause 19 of the contract agreement which required the vendor to present the project plan to the County Assembly within thirty (30) days from the effective date of the contract and periodic progress reports.

In the circumstances, the value for money amounting to Kshs.31,820,239 spent on the Hansard system could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

403. There were no material issues noted under effectiveness of internal controls, risk management and governance.

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COUNTY ASSEMBLY OF KAKAMEGA – NO.37

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

404. Variance in the Transfers from County Revenue Fund

The statement of receipts and payments reflects transfers from the CRF amounting to Kshs.1,309,842,525 and as disclosed in Note 1 to the financial statements. However, the County Revenue Fund-County Government of Kakamega financial statements reflects a corresponding transfer to County Assembly of Kakamega amounting to Kshs.1,406,249,234, resulting in an unexplained and unreconciled variance of Kshs.96,406,709.

In the circumstances, the accuracy and completeness of transfers from the CRF amounting to Kshs.1,309,842,525 could not be confirmed.

405. Variance in Training Expenses

The statement of receipts and payments reflects use of goods and services amounting to Kshs.498,749,482, which as disclosed in Note 5 to the financial statements includes training expenses amounting to Kshs.2,048,761. However, the general ledger and payment vouchers supporting the training expenses reflect an amount of Kshs.3,241,209, resulting to an unreconciled and unexplained variance of Kshs.1,192,448.

In the circumstances, the accuracy and completeness of training expenses amounting to Kshs.2,048,761 could not be confirmed.

406. Inaccuracies in the Disclosures of the Cash and Cash Equivalents Balance

The statement of financial assets and liabilities reflects a credit balance of Kshs.2,972,783 in respect of cash and cash equivalents which, as disclosed in Note 13A to the financial statements, includes two cash book balances of Kshs.53,578,197 and Kshs.28,280, and additional two overdrawn cash book balances of Kshs.15,184,053 and Kshs.41,395,207. However, the direct offsetting of assets and liabilities is not permitted by the accounting standards which requires the separate disclosure of assets and liabilities.

In the circumstances, the accuracy and completeness of the credit cash and cash equivalents balance of Kshs.2,972,783 could not be confirmed.

407. Unsupported Legal Fees

The statement of receipts and payments reflects use of goods and services amounting to Kshs.498,749,482, which as disclosed in Note 5 to the financial statements includes other operating expenses amounting to Kshs.115,581,803. The latter amount includes a total of Kshs.13,695,404 paid to advocate firms. However, procurement documents including approved requisitions, evaluation committee minutes, tender award letters and tender

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acceptance letters were not provided for audit review. Further, instructions to advocates by legal officer to take up legal cases, the justification on why the legal officer did not take up the cases to save the County Assembly on legal expenses and computation of the advocates fees were not provided for audit review.

In the circumstances, the accuracy and completeness of legal expenses amounting to Kshs.13,695,404 could not be confirmed.

408. Unsupported Bank Overdraft Facility

The County Assembly acquired a bank overdraft facility amounting to Kshs.37,000,000 from a local bank in the year 2022. The loan principal had attracted accrued interest amounting to Kshs.4,395,207 as at 28 February, 2024 resulting in an accumulated balance of Kshs.41,395,207. However, the loan agreement and approval were not provided for audit review.

In the circumstances, the regularity of the overdraft facility amounting to Kshs.41,395,207 could not be confirmed.

Emphasis of the Matter

409. Undisclosed Pending Staff Payables

Note 2 on Other Disclosures to the financial statements reflects Nil pending staff payables, which differs in comparison with the supporting Annex 2 to the financial statements which indicates a balance of Kshs.47,173,970 comprising pending committee bills of Kshs.23,495,850, special committees of Kshs.10,716,900 and pending staff payables of Kshs.12,961,220.

Further, Annex 2 to the financial statements on analysis of pending staff payables does not include staff job group, the date, original amount, amount paid to date, outstanding balance brought forward and comments as required by the reporting template.

Failure to settle the pending bills during the year to which they relate distorts the budget implementation of the subsequent year as the outstanding bills form a first charge on resources available.

My opinion is not modified in respect of this matter.

Other Matter

410. Unresolved Prior Year Matters

In the report for the previous year, several issues were raised under Report on the Financial Statements and Report on Lawfulness and Effectiveness in use of Public Resources. However, the issues have not been resolved and Management did not provide satisfactory reasons for the delay in resolving the issues.

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Basis for Conclusion

411. Irregularities in the Human Resource Management

411.1. Non-Adherence to the One-Third Basic Salary Rule

Review of the payroll for the month of June, 2024 revealed that four (4) Members of the County Assembly (MCAs) earned net salaries which were below one-third of their basic salaries, contrary to the requirements of Section 19(3) of the Employment Act, 2007 which provides that the total deductions from salaries of employees shall not exceed two-thirds of their respective basic salaries.

411.2. Non-Compliance with National Cohesion and Integration Act, 2008

Review of records for the County Assembly for the month of June, 2024 revealed that the County Assembly had one hundred and ninety-one (191) staff out of whom one hundred and eighty-seven (187) employees or 98% were from one dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

411.3. Unsupported Employment of Ward Staff

During the year under review, thirty-four (34) ward staff were recruited and appointed by the County Assembly Service Board. However, the announcement of vacancies, applications for jobs, recruitment files, schemes of service, job descriptions, and Salaries and Remuneration Commission (SRC) approved salary scales for Ward staff were not provided for audit review.

In addition, the personal files of employees did not contain copies of academic and professional qualifications, whereas the positions of office manager, office assistant and security guard required at least a diploma or a post-secondary school qualification, or a holder of a recognized professional qualification.

In the circumstances, it was not possible to confirm whether the recruitment of the Ward staff were undertaken in a fair, competitive and transparent manner.

412. Irregular Subscriptions Fees to County Assemblies Forum

During the year under review, the County Assembly made a payment amounting to Kshs.3,000,000 in respect to subscription fees to County Assemblies Forum (CAF). However, CAF does not draw its mandate from the Constitution of Kenya or an Act of Parliament and as such, no enabling legislation establishing the body nor policies and guidelines enacted by the County Assembly.

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

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Basis for Conclusion

413. Weaknesses in Internal Controls

The County Assembly did not have an Information Communication Technology (ICT) Continuity Plan, Risk Management Policy, ICT Security Policy, ICT Strategic Plan and ICT Operational Plans. Further, there was no formal risk assessment carried out during the year under review. In addition, the training needs of ICT staff were not identified and implemented.

In the circumstances, the effectiveness of the County Assembly's internal controls could not be confirmed.

414. Weakness in the Management of Stores

Physical verification of the County Assembly stores carried out on 2 September, 2024 revealed that there were no store bin cards. Therefore, the receipt and issue of consumable stores amounting to Kshs.4,088,250 could not be confirmed. Further, the store was congested, not arranged well and it was not easy to locate the store items.

In the circumstances, the effectiveness of utilization of consumable stores by the County Assembly could not be confirmed.

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COUNTY ASSEMBLY OF VIHIGA – NO.38

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

415. Unsupported Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.295,375,246 as disclosed in Note 4 to the financial statements. Included in the expenditure is domestic travel and subsistence amount of Kshs.99,269,794. However, expenditure of Kshs.2,726,500, paid to forty-one (41) Members of County Assembly (MCAs) and staff to facilitate report writing by the Liaison Committee on progress report for the first half of 2023 for 5 days from 22 to 26 September, 2023 was not supported by the Speaker's approval, attendance list and the means of travel.

In the circumstances, the accuracy and occurrence of the domestic travel and subsistence expenditure of Kshs.2,726,500 could not be confirmed.

416. Unsupported Payment of Sitting and Mileage Allowances

The statement of receipts and payments reflects compensation of employees expenditure of Kshs.332,045,830 as disclosed in Note 3 to the financial statements. Included in the expenditure is an amount of Kshs.133,762,849 relating to personal allowances paid as salaries out of which review of records revealed that Management paid sitting allowances amounting to Kshs.31,554,610 to nineteen (19) Committees of the County Assembly. However, supporting documents including Committee work plans, notice of meetings, minutes of the meetings, Committee sittings attendance register and feedback reports for 18 committees were not provided for audit review. Further, schedules of the detailed individual payments for the sitting allowances including names and number of sittings for each member were not provided for audit review.

In the circumstances, the accuracy, occurrence and regularity of the expenditure could not be confirmed.

417. Unexplained Voided IFMIS Transactions

Review of the Integrated Financial Management Information System (IFMIS) financial transactions revealed that thirty (30) transactions with value of Kshs.24,930,327 were voided during the year but were not supported by documents including voided payment vouchers, requests to void, The National Treasury approvals and exchequer requisitions from the Controller of Budget. Further, reconciliation of voided payments to pending accounts payables and cancelled payments were not provided for audit review.

In the circumstances, the accuracy and regularity of voided transactions could not be confirmed.

418. Unsupported Cash Transactions

IFMIS payment details report indicated that sixty-five (65) transactions amounting to Kshs.289,842,772 were paid in cash during the year. Management has not provided documents in support of the transactions.

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In the circumstances, the regularity of payments amounting to Kshs.289,842,772 could not be confirmed.

419. Unsupported Contingent Liabilities

Note 4 on other important disclosure reflects contingent liabilities opening and closing balances of Kshs.2,797,250 and nil respectively against Court case No. 155 of 2020 between a firm of Architects and the County Assembly settled through consent. However, Management did not provide documentation to support the settlement of the contingent liability or how the liability arose.

In the circumstances, the completeness of the disclosures on contingent liability could not be confirmed.

420. Undelivered Motor Vehicle

The statement of receipts and payments reflects acquisition of assets amount of Kshs.21,316,001 as disclosed in Note 7 to the financial statements. Included in the expenditure is an amount of Kshs.8,029,892 incurred on the purchase of a motor vehicle at Kshs.10,181,374. However, although Management had paid the amount, the vehicle had not been delivered at the time of audit in October, 2024.

In the circumstances, the existence and completeness of payment of Kshs.8,029,892 for the undelivered the motor vehicle could not be confirmed.

Other Matter

421. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

422. Irregular Funding of County Assemblies Forum and Society of Clerks At The Table

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.107,320,569 relating to operating expenses, which includes an amount of Kshs.1,050,000 comprising an amount of Kshs.300,000 paid to County Assembly Forum and an amount of Kshs.750,000 paid to the Society of Clerks-At-The Table. However, the institutions are not backed by any law and are not among the established structures of the County Assembly. This contravenes Section 149(1)(a) of the

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Public Finance Management Act, 2012 which provides that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized.

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

423. Irregularities in Human Resource Management

423.1. Salaries Paid Outside Integrated Payroll and Personnel Database

Review of payroll records provided for audit revealed that Management operated two payroll systems that is a manual (excel format) payroll system and the Integrated Payroll and Personnel Database (IPPD) system. However, three (3) MCAs and two (2) staff members were paid gross salaries of Kshs.5,638,324 outside the IPPD system contrary to Section 1.5.1 of The National Treasury Financial Accounting Recording and Reporting Manual which provides that the personnel emoluments of the County Governments staff should be paid through IPPD. Further, the use of the manual system involves manual calculations of deductions to arrive at net monthly pay and constant updates of the data which makes it prone to human errors.

423.2. Undefined Allowances in the Integrated Payroll and Personnel Database System

Analysis of the IPPD information revealed that eighty (80) employees were paid salary arrears more than once amounting to Kshs.36,783,666. The salary arrears processed through the IPPD system consisted of sitting allowances and monthly retainer paid to County Assembly Service Board members. However, no satisfactory explanation was provided by Management on the reason why the allowances were paid as arrears.

423.3. Irregular Payment of House Allowance to the Speaker of the County Assembly

Review of IPPD payroll for the year under review revealed that the Speaker was paid rental house allowance despite the Circular issued for the completion of the Speaker's residence. Further, physical verification of the Speaker's residence conducted on 10 September, 2024 revealed that the Speaker occupies the residence. Additionally, scrutiny of the payroll revealed that some employees of the County Assembly were paid the normal rental house allowance in addition to a special house allowance amounting to Kshs.6,411,355. This was contrary to the Salaries and Remuneration Commission Circular that does not permit the payment of the special house allowance.

423.4. Unspecified Study Leave Period

Review on personnel records revealed that an employee was granted a study leave having received a scholarship from the Russian Government. The study leave request was approved by the County Assembly Service Board on 17 January, 2022. However, the officer was requested to clarify the exact period of study in Russia as it was noted that it was not clearly indicated in the letter of offer. The officer did not respond to the Service Board. Documents provided for audit in support of the scholarship opportunity are written

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in Russian language posing a hindrance in interpretation. The employee's emoluments is still being processed through the IPPD system. Further, a 20% training levy was not deducted from the employee's salary.

423.5. Non-Compliance with Ward Partisan Staffing Levels

During the year under review, the County Assembly advertised for thirty-six (36) positions each for MCA Office Manager, MCA office assistants and MCA security guards all totalling one hundred and eight (108) positions. However, review of the recruitment report by the County Assembly Service Board indicated that the successful candidates for the positions were one hundred and twenty-one (121) Ward Office staff against a maximum of one hundred and eight (108) that had been advertised.

Further, scrutiny of personal records revealed that the employment contracts were executed between the ward staff and the Members of the County Assembly and not with the County Assembly Service Board. This was contrary to Section II(I)(b) of the County Assembly Services Act, 2017 which provides for the County Assembly Service Board to execute the appointment and confirmation of officers and other staff.

423.6. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of records provided for audit revealed that the total number of employees of the County Assembly was two hundred and forty-one (241) out of whom two hundred and twenty-eight (228) or 95 % of the total number were members of the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that more than one-third of employees should come from one ethnic community.

423.7. Non-Compliance with the One-Third of Basic Salary Rule

Review of the payroll revealed that some officers were earning salaries less than one-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 shall not exceed two-thirds (2/3) of such wages.

423.8. Late Remittance of Statutory Deductions

During the year under review, the County Assembly made late remittances of various statutory deductions. Review of payroll bank remittance reports in respect of statutory deductions revealed instances of late remittance of National Social Security Fund and National Health Insurance Fund deductions. The law requires that payments for NHIF and NSSF are to be made by the 9th of the following month. Late remittance of statutory deductions could lead to penalties.

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

424. Poor Management of Imprest

424.1. Unsurrendered Imprests

Review of records revealed that imprest due amounting to Kshs.5,621,599 issued during the year had not been surrendered by 30 June, 2024. Additionally, analysis of the imprest

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register revealed that it had not been updated to indicate the current outstanding imprest balance. Management has not provided an explanation for not recovering the outstanding imprests from the salaries of the defaulting officers. Further, the imprest schedule provided revealed that several officers were holding multiple imprests contrary to the Regulation 93(8) of the Public Finance Management (County Governments) Regulations, 2015 which states that an imprest holder must surrender the first imprest before being issued with another one.

424.2. Irregular Payment of Retreat Allowance

An amount of Kshs.901,600 was paid to seventeen (17) officers as facilitation for reviewing, developing and producing the strategic plan. This is a job responsibility that is factored in determining the relative worth of a job, the result of which informs the remuneration of a job. This payment was contrary to the SRC circular dated 7 August, 2023 on which stopped payment of retreat allowance in the public service.

424.3. Irregular Use of Imprest on Procurement of Goods and Services

Review of records provided revealed that Management contracted a service provider to supply tea and snacks for one hundred and fifty (150) staff at a contract sum of Kshs.3,700,000. However, the payment for the services was made through imprests issued to a member of staff instead of paying directly to the service provider. This was contrary to Regulation 93(3) of the Public Finance Management (County Governments) Regulations, 2015, which provides that temporary imprests shall be issued in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses and not for procurement of goods and services.

424.4. Incomplete Imprest Warrants and Registers

Review and analysis of imprest warrants shows that they were incomplete as key details were not filled, such as the designation of the imprest holder, personal numbers and their respective department. Similarly, the temporary imprest register was found to be incomplete, with several columns left blank, including the due date for surrender, surrender departmental voucher number, and the imprest register was not updated to indicate the outstanding balance. Additionally, the personal numbers of the imprest holders were not recorded in the register contrary to the guidelines issued by The National Treasury.

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

425. Irregularities in the Construction of the Speaker's Residence

Review of project payments as at September 2024 in relation to the proposed Speaker's residence indicated that the County Assembly spent an amount of Kshs.38,681,687 on construction of the Speaker's residence which was above the contract sum of Kshs.34,493,609 by an amount of Kshs.4,186,944 or 12.1%. No approvals for the variations were provided for audit.

Further, the County Assembly separately contracted for the following works:

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(i) Construction of a boundary wall, landscaping and paving at the Speaker's residence at a contract sum of Kshs.19,786,352;

(ii) Construction of an external toilet at the Speaker's residence at Kshs.1,447,294;

(iii) Construction of elevated tank at the Speaker's residence, at Kshs.1,790,680;

(iv) Drilling and equipping of Boreholes at the Speaker's residence for Kshs.3,385,500;

(v) Provision of interior design or decorating the Speaker's house at Kshs.1,986,117; and

(vi) Supply and delivery of furniture at the Speaker's official residence at Kshs.2,983,000.

As at the time of audit, the County Assembly had spent a total of Kshs.73,446,130 contrary to the Salaries and Renumeration Commission Circular of May, 2019 which gave a ceiling of Kshs.35,000,000 for the construction of the Speaker's Residence.

In addition, the Speaker's residence stands on approximately 1.15 hectares or 2.87 acres piece of land. This contravened the acreage limit of up to one (1) acre recommended by the Salaries and Renumeration Commission. The land on which the Speaker's residence is built indicates that it was purchased from a private owner at a cost of Kshs.10,000,000. This was contrary to the Salaries and Remuneration Commission circular which stated that Counties should construct the houses on public land owned by the County.

425.1. Delays in Completion of Projects

The County Assembly awarded a contract for the proposed erection of boundary wall, landscaping and paving at Speaker's residence to a construction company at a contract sum of Kshs.19,786,352 with the commencement and completion dates of 29 September, 2022 and 30 June, 2023 respectively.

However, the following anomalies were noted:

i. Physical verification carried out on 10 September, 2024 revealed that the Project was not complete despite the agreed completion date of 30 June, 2023;

ii. No documentation was provided for the revised completion date and approval of the same by the accounting officer;

iii. Management did not provide projects technical status report, project implementation team report, inspection and acceptance reports and final project accounts to authenticate works completed; and

iv. Performance Bond which expired on 26 October, 2023 had not been renewed.

425.2. Drilling of Borehole at the Assembly and the Speaker's Residence

The County Assembly awarded a contract for the drilling and equipping of boreholes at the precincts of the County Assembly and the Speaker's residence to a local company at

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a contract sum of Kshs.6,771,000. The works commenced on 24 May, 2024. The Project was completed and inspected on 19 June, 2024 with the defect's liability period ending on 19 September, 2024.

However, the following anomalies were noted during physical verification carried out on 10 September, 2024:

i. Preparation of operations manual and training of staff to manage the project costing Kshs.30,000 and planting of water friendly trees amounting to Kshs.50,000 for environmental sustainability was yet to be done;

ii. A copy of the performance bond of Kshs.300,000 was not provided;

iii. Certificate of completion final accounts and defects liability certificate were yet to be issued;

iv. The County Assembly did not have a title for the land they currently occupy which was needed before National Environmental Management Authority approval for the drilling.

425.3. Supply, Delivery and Fitting of Interior Design and Decorating of the Speaker's House

A contract of Kshs.1,986,117 was awarded to a company for the supply, delivery and fitting of interior design and decorating of the Speaker's House. However, physical verification done on 10 September, 2024 revealed that two portrait photos which had costed Kshs.8,000 were yet to be brought into the residence.

Further, a market survey report on flower pots was not provided for audit, despite each costing between Kshs.45,000 and Kshs.55,000. The eight (8) flower pots purchased had artificial plants for the visitors' lounge, living room, dining room, stair case and family room; and one decorative mirror costing Kshs.55,000 was yet to be supplied.

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

426. Lack of Value for Money in Procurement of Local Area Network and Internet Connection

Management contracted a company for the supply, delivery, installation, testing and commissioning of structured cabling for Local Area Network (LAN) and Internet Connection to the County Assembly in 2017 at a contract sum of Kshs.6,400,717. The completion, hand over and commissioning certificate was issued on 03 July, 2017. Further, another company was awarded a contract for supply, delivery, installation and testing of items needed for internet connection to the National Fibre Back Bone in the 2022/2023 financial year and were paid an amount of Kshs.499,500 in April 2023. However, the following anomalies were noted:

i. At the time of audit in September, 2024, there was no LAN internet connectivity at the County Assembly despite an amount of Kshs.6,706,659 having been spent on the project;

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ii. The contract agreement between the County Assembly and the second company was not signed by the procuring entity; and

iii. Inspection and acceptance certificate to show that works completed were inspected and approved was not provided for audit verification.

In the circumstances, the County Assembly may have realized value for money on the utilization of public funds.

427. Incomplete Procurement Plan

The procurement plan did not indicate planned delivery of items, implementation or completion dates for all works, goods and services, whether some procurements were to be procured within a single year or under a multi-year period or whether any items may be aggregated for procurement as a single package or for procurement through any applicable arrangement for common user items.

Further, the annual procurement plan was not prepared according to the format specified in the Third Schedule of Regulation 42 of the Public Procurement and Asset Disposal Regulations, 2020.

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

428. Irregularities in Legal Expenses

428.1. Pending Legal Case

Former County Executive Committee Members in the County Government of Vihiga were impeached and sort redress in court. A judgement was issued on 28 November, 2023 that their rights were infringed during the impeachment process and each one of them was awarded general damages of Kshs.1,800,000 and exemplary damages of Kshs.250,000 payable by the County Assembly. However, the details of the judgement and appeal, if any, were not provided for audit review to confirm the allegations stated in the case. The County Assembly is yet to pay the money as per the judgement.

428.2. Irregular Legal Expenses

Review of documents revealed that the County Assembly awarded a contract to a local firm for the proposed design and architectural works at the County Assembly Headquarters and renovation of Office Block on 15 April, 2014. However, a dispute arose between the contractor and the County Assembly which was subjected to an arbitration and ruled by the High Court of Kenya. Later the case was taken to the Court of Appeal and the Court ordered the County Assembly to deposit a decretal sum of Kshs.31,653,818 in an interest earning joint account at any branch of Cooperative Bank of Kenya Ltd. During the financial year 2021/2022, the County Assembly deposited Kshs.20,000,000 in the joint account.

However, the following inadequacies were noted:

i. Management did not provide the contract agreement to confirm the contract sum for works done by the contractor;

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ii. Although the County Assembly had paid the contractor an amount of Kshs.33,509,587 as at the time of audit as ordered by the court, there was no evidence of works done;

iii. The Court ordered that the decretal sum be deposited into a joint bank account. However, Management failed to provide minutes for opening the bank account together with all the bank statements up to 30 June, 2023 hence, transactions into and out of the bank account could not be verified;

iv. The joint bank account was in the name of a third party and not the County Assembly; and

v. The account was an interest earning account. However, the details of interest earned and how it was accounted for was not provided for audit.

In the circumstances, the regulating of the legal expenses could not be confirmed.

429. Long Outstanding Tax Arrears

Review of the list of pending bills provided for audit revealed that the County Assembly owed Kenya Revenue Authority an amount of Kshs.8,594,234 as at 30 June, 2024 relating to PAYE and Withholding Tax arrears for the period July 2021 to June, 2022. The tax obligation has been outstanding for over two (2) years. An assessment demand notice indicated variances in taxes declared in PAYE and withholding taxes amounting to Kshs.10,495,195 resulting in penalties and interests amounting to Kshs.2,099,039. A debt payment agreement between KRA and the County Assembly indicated that the tax liability was to be fully offset by 30 May, 2024. However, only an amount of Kshs.4,000,000 had been paid so far, resulting in outstanding tax arrears of Kshs.8,594,234.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

430. Weakness in the Internal Audit Function and Audit Committee

Review of records provided revealed that the Internal Audit Department did not issue any audit reports during the year under review. This was contrary to Regulation 159(1) of Public Finance Management (County Governments) Regulations, 2015 which mandates the Head of Internal Audit to assess his own effectiveness through internal performance appraisal and carry out annual review of the performance of the internal audit activity commenting on its effectiveness in the annual report to the County Treasury.

Further, it was noted that the Internal Audit Department has only two (2) officers despite the fact that the staff establishment mandates four officers. Further, Audit Committee members were appointed in the month of June 2024, close to the end of financial year, therefore failing to meet the legal requirement of holding at least four meetings in the year ended 30 June, 2024.

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In addition, analysis shows that the County Assembly has an Audit Committee whose term ended on 23 September, 2023. However, the Committee held a meeting on November, 2023, forty days after their term had expired to approve the audit work plan for the 2023/2024 financial year, which may undermine the integrity of governance process given that the Audit Committee lacked the legal authority to represent the County Assembly, and may render their decisions invalid.

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

431. Lack of a Risk Register

The County Assembly did not have a risk register in place. As a result, risks that could hinder the delivery of its objectives had not been identified and mitigated accordingly.

In the circumstances, the existence of effective risk management measures could not be confirmed.

432. Lack of an Approved Human Resources Establishment

Review of records revealed that the County Assembly did not have in place an approved staff establishment to indicate the authorized staffing levels for each category of employees. Further, no evidence was provided to indicate whether the County Assembly had carried out job evaluation to determine the staff requirements for each category contrary Part B.5(2) of the County Assembly Human Resource Manual, 2015 which states that all vacancies shall be declared in a prescribed format which shall include: the number of vacancies; when the vacancy occurred; whether the vacancy is within the authorized establishment and other relevant details.

Additionally, review of records revealed that the staff establishment in place was one hundred and ninety-seven (197) employees, while Management indicated that they had two hundred and forty-one (241) employees. Other records indicated that the County Assembly had ninety-three (93) employees which represents overall understaffing of one hundred and four (104) employees. Management did not provide a reconciliation to indicate the exact staffing levels at the Assembly.

It was also noted that the County Assembly Service Board did not develop Human Resource and Annual Recruitment Plans.

In the circumstances, existence of effective mechanisms in Management of staff could not be confirmed.

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COUNTY ASSEMBLY OF BUNGOMA – NO.39

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

433. There were no material issues noted during the audit of the financial statements.

Other Matter

434. Unresolved Prior Year Matters

In the report for the previous year, several issues were raised under Report on Lawfulness and Effectiveness in use of Public Resources and Report on the Effectiveness of Internal Controls, Risk Management and Governance. However, the issues had not been resolved and Management did not provide satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

435. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of the County Assembly's staff records for the month of June, 2024 showed that out of the one hundred and twenty-four (124) permanent employees, one hundred (100) or 81% were from dominant ethnic community. Further, all the five (5) members of County Assembly Service Board were members of the dominant ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public entity shall have more than one third of its staff from one ethnic community.

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

436. Failure to Implement the Recommendations of Oversight Bodies

The County Assembly Management did not provide reports on Implementation of the recommendations of County Assembly's Public Accounts and Investments Committee recommendations and Senate's County Public Accounts Committee. This was contrary to Section 31(1) (a) of the Public Audit Act, 2015 which provides that within three months after Parliament or the County Assembly has debated and considered the final report of the Auditor-General and made recommendations, a State Organ or a public entity that had been audited shall as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

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

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437. Irregular Subscriptions Fees

The statement of receipts and payments reflects use of goods and services amounting to Kshs.462,075,742 as disclosed in Note 4 to the financial statements, which includes other operating expenses amounting to Kshs.123,706,269. The County Assembly made a payment of Kshs.750,000 in respect to subscription fees to Society of Clerks-At-The-Table (SOCATT) which does not draw its mandate from the Constitution of Kenya or an Act of Parliament. Further, Annex 1 to the financial statements in respect of pending accounts payables balance of Kshs.27,158,184 includes County Assemblies Forum (CAF) and SOCATT balances of Kshs.14,700,000 and Kshs.44,000 respectively. However, the policy or law guiding on payment of subscriptions to such bodies was not provide for audit review.

In the circumstances, the value for money in respect to these expenditures could not be confirmed.

438. Failure to Remit Collected Taxes

Annex 1 to the financial statements in respect of pending accounts payable balance of Kshs.27,158,184 includes a debt owed to Kenya Revenue Authority amounting to Kshs.603,345 in respect of withholding income tax for the financial year 2022/2023. The County Assembly collected taxes from several suppliers but failed to remit. This was contrary to the Section 8(5) of Income Tax (Withholding Tax) Rules, 2001 which provides that a person who, having deducted tax under these rules, fails to remit tax within the time prescribed under this rule, account for such tax deducted or who fails to comply with paragraph (2), commits an offence.

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

439. Unauthorised Borrowing from Other County Assembly Entities

Annex 3 to the financial statements reflects other pending payables balance of Kshs.96,810,039 which refers to borrowing by the County Assembly from Bungoma County Assembly Members, and Employees' Car Loan and Mortgage Schemes Funds. However, the opening balance of Kshs.66,677,146 has been outstanding for more than twenty-four (24) months. Further, there was no approval from the County Assembly. This was contrary to Section 142(1) and (3) of the Public Finance Management Act, 2012 which states the County Assembly may authorise short-term borrowing by county Government entities for cash management purposes only and a county Government entity that has any such borrowing shall ensure that the money borrowed is repaid within a year from the date on which it was borrowed.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

440. There were no material issues relating to effectiveness of internal controls, risk management and governance.

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COUNTY ASSEMBLY OF BUSIA – NO.40

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

441. Unauthorised Overdrawing of the Cash Book

The statement of financial assets and liabilities reflects a net credit balance of Kshs.5,756,551 in respect of bank balances as disclosed in Note 8(A) to the financial statements. Included in this balance is a credit balance of Kshs.7,366,564 indicating an overdrawn imprest bank account as at 30 June, 2024. Management did not provide explanation for overdraw of the account neither was there an approval for borrowing by the County Assembly.

In the circumstances, the accuracy of the bank balance could not be confirmed.

442. Unconfirmed Transfers to Other Government Entities

The statement of receipts and payments reflects Nil transfers to other Government entities as disclosed in Note 4 to the financial statements. However, County Revenue Fund - County Government of Busia financial statements reflects receipts amounting to Kshs.1,347,810 in respect to return to County Revenue Fund (CRF) from County Assembly issues.

In the circumstances, the accuracy and completeness of transfers to other Government entities could not be confirmed.

Emphasis of Matter

443. Long Outstanding Pending Accounts Payable and Staff Payables

Notes 1 and 2 under other important disclosures to the financial statements reflect a total balance of Kshs.248,435,354 in respect of pending accounts payable staff payables. Included in this amount is a brought forward balance of Kshs.150,674,163, additions during the year of Kshs.124,446,788 and payments during the year of Kshs.26,685,596. No explanation was provided on the failure to clear the long outstanding bills brought forward, which relate to the period between financial year 2020/2021 and 2022/2023.

Failure to settle bills during the year in which they are incurred distorts the financial statements for that year and adversely affects the budgetary provisions of the subsequent financial year to which they have to be charged.

444. Late Receipts of Exchequer Issues from The National Treasury

Review of bank statements and cash books of the County Assembly revealed that, Exchequer receipts totalling Kshs.55,768,125 were received on 26 June, 2024. This was at the end of the financial year. Late receipt of Exchequer may have affected the planned activities by Management.

My opinion is not modified in respect of these matters.

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Other Matter

445. 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 the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

446. Irregular Use of Direct Procurement Method

The County Assembly awarded a tender on 28 June, 2024 to two (2) local firms for the landscaping and electrical razor wire fencing of the Speaker's official residence, at contract sums of Kshs.1,855,020 and Kshs.999,450 under Phase 1 of the project respectively, totalling Kshs.2,854,470 and the total amounts was paid to the two (2) firms.

Further, the County Assembly awarded Phase 2 Tender for the landscaping and electrical razor wire fencing of the Speaker's official residence to the same two (2) local firms, at contract sums of Kshs.3,496,560 and Kshs.1,499,300 respectively, totalling Kshs.4,995,860 through direct procurement method. However, no adequate explanation was provided on why there was a change in the procurement method during the second phase of the project as the two (2) phases of the project were clearly distinct.

This was contrary to Section 103(1) of the Public Procurement and Asset Disposal Act, 2015 which requires that a procuring entity may use direct procurement as allowed under Sub-Section (2) as long as the purpose is not to avoid competition. Management failed to demonstrate that the purpose was not to avoid competition.

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

447. Unutilized E-Assembly Management Software

The County Assembly awarded a contract for the supply, installation, testing and commissioning of e-Assembly management software for Committee rooms and general offices to a local firm, at a contract sum of Kshs.14,900,000, on 26 April, 2024. At the time of audit in October, 2024, it was observed that the contractor had been fully paid. However, physical verification conducted on 5 September, 2024. Review of the information available revealed that the system was not in use, despite having been delivered in June, 2024.

Further, the tender documents indicate that the cloud storage was to be one (1) Terabyte (TB), whereas, the contractor installed a lesser cloud storage of 500 Gigabyte (GB) SSD.

In addition, there was no disclosure of details of the ownership of the cloud storage system, hence putting the security and confidentiality of the Assembly's information at

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risk. In addition, no records of the users having access to the cloud storage system were provided for audit.

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

448. Irregularities in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees payments totalling Kshs.377,111,602. However, the following unsatisfactory matters were noted.

448.1. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of records maintained by Management revealed that the County Assembly had 352 employees as at 30 June, 2024. However, it was noted that 238 members of staff or 68% were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

448.2. Non-Compliance with Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects revenue totalling Kshs.942,251,854 and compensation of employees payments totalling Kshs.377,111,602. The compensation of employees costs constituted forty (40%) of the total receipts of the County Executive for the year under review contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations 2015 which provides that the costs should not exceed 35% of the County Executive total revenue.

448.3. Non-Compliance with the One-third of Basic Salary Rule

Review of the payroll records for the year under audit revealed that one hundred and thirty-one (131) employees had net pay that was less than one-third of their respective basic salaries, contrary to the requirements of Section 19(3) of the Employment Act, 2007 which provides that the total deductions from salaries of employees shall not exceed two-thirds of their respective basic salaries.

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

449. Unauthorized Expenditure on Legal Expenses

The statement of receipts and payments reflects use of goods and other services amounting to Kshs.375,242,350, which includes other operating expenses amounting to Kshs.106,400,345 as disclosed in Note 3 to the financial statements. The expenditure includes legal fees amount of Kshs.3,534,100, out of which a total of Kshs.3,401,000 was paid to a local law firm. However, no approval from the Attorney General's office was provided for audit review, authorizing the law firm to offer services to the Assembly. This was contrary to the Attorney General's Circular referenced AG/CONF/6/E/247/VOL II dated 16 April, 2014 which requires that legal fee payable to any private advocate or law firm under such an arrangement must be approved and authorized by the Attorney General.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

450. Lack of Updated Non-Current Assets Register

Annex 3 to the financial statements on summary of non-current assets register reflects a balance of Kshs.749,296,811 being the historical value of non-current assets of the County Assembly as at 30 June, 2024. However, the County Assembly lacked an updated fixed assets register prepared in the format prescribed with minimum requirements of identification or serial number, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value and identification codes with which assets were tagged contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

Further, all the County Assembly assets were not tagged for ease of identification and evidence of ownership of property by the entity.

In the circumstances, the existence of an effective mechanism to safeguard the County Assembly's assets could not be confirmed.

451. Operating Without an Approved Staff Establishment

Review of the existence and operationalization of the Assembly's human resource policies and procedure manuals revealed that, the County Assembly did not have an approved staff establishment during the 2023/2024 financial year, and therefore the optimal staffing levels for all cadres of staff had not been established.

In the circumstances, the effectiveness of Human Resource Management could not be confirmed.

452. Weaknesses in the Information Communication Technology (ICT) Internal Controls

Review of the County Assembly's ICT environment revealed that the County Assembly does not have its own ICT System as it uses the Integrated Financial Management Information System (IFMIS) to process payments and the Integrated Payroll and Personnel Database **(**IPPD) to process the payroll. However, the following weaknesses were observed in respect to security management, there were no formally approved ICT security policy to ensure data confidentiality, integrity and availability; there was no continuity and disaster recovery plans; the ICT staff were not trained during the financial year. The ICT staff should be trained frequently because ICT applications keep on advancing.

In the circumstances, the effectiveness of the County Assembly's ICT internal controls environment could not be confirmed.

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453. Weakness in the Internal Audit Function

453.1. Lack of Lockable Storage Facility, Cabinets and Computers

Physical verification at the Internal Audit office showed that the files for the audit assignments carried out and Audit Committee files are not kept under lockable cabinet thus exposing the confidential files to unauthorized access. Further, it was observed that the department has one desktop computer that is used by one staff, and the Head of Internal Audit Department uses his personal laptop to execute his official duties.

453.2. Late Submission of Internal Audit Work Plan and Lack of Budget

Review of the work plan for the internal audit department of the County Assembly revealed that the work plan for the year under review was submitted and approved by the Audit Committee on 23 September, 2023 against the stipulated deadline of 15, February, 2023 as required Regulation 163(2) of the Public Finance Management (County Governments) Regulations, 2015.

Further, it was also observed that the work plan contained only activities to be carried out, but had no cost element and thus making it impossible to be included in the annual budget of the County Assembly for the 2023/2024 financial year.

453.3. Lack of Performance Appraisal of the Internal Audit Function

Review of the records and reports revealed that, the Audit Committee did not carry out annual review of the independence, performance and competency of the internal audit unit and comment on their effectiveness in the annual report. The Internal Audit Unit did not go through a professional assessment on its effectiveness done by a professional body or recognized institution which should be done once every three (3) years but not more than five (5) years. This has never been done since 2013 when the County Assembly came in to effect, under the Constitution of Kenya, 2010. This was contrary to Regulation 159(1)(2) and (3) of the Public Finance Management (County Governments) Regulations, 2015.

453.4. Lack of Capacity Building in the Internal Audit Function

Review of the Audit Committee records and files for the year under review revealed that, the Audit Committee members never attended any trainings that would enhance their skills in discharging their duties, contrary to Regulation 175(a) of the Public Finance Management (County Governments) Regulations, 2015. In addition, the two (2) Internal Audit staff had also not attended any capacity building training during the year under review.

453.5. Lack of Fraud Reporting Mechanism/Whistle-Blowing

It was observed that, the County Assembly has no mechanism where fraud or other improprieties can be reported by staff or any other person, besides what the internal audit function may come to know and initiate an investigation. This is contrary to Clause 3.3.3 of Gazette Notice No.40 dated 15 April, 2016 on Audit Committee guidelines, which requires that, the Audit Committee should review arrangements by which staff of the entity or any other person may, in confidence, raise concerns about possible improprieties in

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matters of financial reporting or other matters. The Audit Committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up and action.

In the circumstances, effectiveness of internal controls, risk management and governance of the County Assembly could not be confirmed.

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COUNTY ASSEMBLY OF SIAYA – NO.41

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

454. Misclassification of Expenditure

The statement of receipts and payments reflects compensation of employees cost of Kshs.332,840,002 as disclosed in Note 3 to the financial statements. The amount includes basic wages for temporary employees amounting to Kshs.35,692,083. Review of payment records revealed that an amount of Kshs.6,528,600 relating to ward and general office operations was erroneously charged to compensation of employees. The error was not corrected by passing the requisite journal adjustments to correct the misclassification.

In the circumstances, the accuracy of compensation of employees could not be confirmed.

455. Unsupported Legal Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.402,933,840 as disclosed in Note 4 to the financial statements. Included in the amount is other operating expenses balance of Kshs.49,515,344. The other operating expenses include legal fees for provision of consultancy services for various court cases totalling Kshs.9,270,180. However, user requisition, specification of services to be rendered, tender advertisement and evaluation reports, notification of award, letter of acceptance and contract agreement were not provided for audit review.

In the circumstances, the accuracy and occurrence of legal fees for provision of consultancy services for various cases could not be confirmed.

Emphasis of Matter

456. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (Recurrent and Development Combined) reflects final receipts budget of Kshs.1,138,827,082 and actual on comparable basis amount of Kshs.998,720,529 resulting in underfunding of Kshs.140,106,553 or 12% of the budget.

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

457. Delayed Settlement of Pending Bills

Review of the pending bills records show that the County Assembly had pending bills balances of Kshs.15,205,456 outstanding for more than sixty (60) days contrary to the Regulation 150(1) and (3) of the Public Procurement and Asset Disposal Regulations, 2020, which requires that subject to availability of funds and after proper certification of

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goods, works or service, prompt payments should be made within 60 days from date of receipt of invoice.

My opinion is not modified in respect of these matters.

Other Matter

458. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the matters remain unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

459. Irregularities in the Procurement and Award of Framework Contract

The County Assembly entered into a framework contract agreement for supply of fuel, oil and lubricants for a period of two (2) years from July, 2023. Review of the approved list of prequalified suppliers show that four (4) firms were entered into the framework contract instead of seven (7) vendors contrary to Regulation 102(1)(b and c) of the Public Procurement and Asset Disposal Regulations, 2020 which require that the number of suppliers or contractors shall not be less than seven (7) alternative vendors.

Further, Management did not provide evidence of the formal invitations in writing for the four suppliers entered into the framework agreement to participate in the mini-competition to determine the vendor who had submitted the lowest evaluated price on the basis of the award criteria set out in the framework agreement.

In the circumstances, Management was in breach of law.

460. Stalled Construction of Works Contracts

The County Assembly signed contracts with various contractors for proposed construction of Ward office meeting halls, drilling of boreholes and water kiosks. The contracts for the construction of meeting halls were awarded to various contractors for a duration of eight (8) months with contract agreements signed on 1 June, 2023. Records provided for audit review indicated that the contractors later requested for an extension for a period of eleven (11) months which was granted with the new completion date of 31 December, 2023. Management subsequently noted that the works were not being done as per the contract resulting in termination notices being issued to the contractors on 23 May, 2024, citing dissatisfaction on how the works were being done. The water kiosks had been completed but were unlabeled. At the time of physical verification in September, 2024, the projects had stalled.

In the circumstances, the public may not benefit from the investments made by the County Assembly on the incomplete and stalled projects.

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461. Irregularities in Human Resource Management Practices

461.1. Non-Adherence to Ethnicity Balance

An analysis of staff complement for the year under review revealed that the County Assembly had two hundred and sixty-two (262) members of staff out of whom two hundred and forty-six (246) or 94% were from the dominant community in the County. This was contrary to Article 232(h) and (i) of the Constitution of Kenya, 2010 which require representation of Kenya's diverse communities and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of men and women; and the members of all ethnic groups and persons with disabilities.

461.2. Non-Compliance with One-Third Rule on Basic Salary

Review of the County Assembly payroll records revealed that various officers were earning less than a third of their basic pay contrary to Section C.1(3) of the County Assembly Human Resource Manual states that, "Public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries and Heads of Human Resource Units should ensure compliance." This was also contrary to Section 19(3) of the Employment Act, 2007, which states that the total amount of deduction of the wages of an employee shall not exceed two-thirds (2/3) of such wages.

461.3. Staff on Acting Capacity Beyond Six (6) months

Review of personnel records showed that one officer has been serving in an acting capacity for more than six (6) months contrary to Section 34(3) of the Public Service Commission Act, 2017 which require that an officer may be appointed in an acting capacity for a period of at least thirty (30) days but not exceeding a period of six months.

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

462. Failure to Establish a County Assembly Fund

The Assembly had not established the County Assembly Fund contrary to Section 34(a), (b) and (c) of the County Assembly Act, 2017 which states that there is established for each county a fund to be known as the County Assembly Fund and that there shall be paid into the County Assembly Fund any grants, gifts, donations or bequests and monies from investment of the Board and such fees imposed or levies administered by the Board and such monies as may in the future be appropriated from the Revenue Fund established for each county.

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

463. Late Remittance of Statutory Deductions

Review of payment records revealed that the County Assembly remitted statutory deductions for July, 2023 amounting to Kshs.4,736,772 and Kshs.79,720 for PAYE and NSSF respectively in September, 2023. Further, NHIF deductions for March, 2024 amounting to Kshs.284,350 was remitted in April, 2024. This was contrary to Section 19(4) of the Employment Act, 2007, which states that an employer who deducts an

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amount from employee's remuneration in accordance with Subsection 19(1) (a), (f), (g) and (h) shall pay the amount so deducted in accordance with time period and other requirements specified in law, agreement, court order or arbitration as the case may be.

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

464. Non-Adherence to ICT Steering Committee Meetings Threshold

Review of procurement documents relating to Information, Communication and Technology (ICT) revealed that projects amounting to Kshs.130,649,517 were executed during the year under review. However, the ICT Steering Committee which was mandated to make recommendation on ICT projects, met only twice against the prescribed meetings of four (4) per year contrary to the ICT Steering Committee charter that required the ICT Steering Committee shall meet at least once every three months or as need arises so as to accomplish its duties. In addition, the ICT projects were undertaken without the recommendations of the ICT Steering Committee.

In the circumstances, Management was in breach of policy.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

465. Effectiveness in Internal Audit Function

During the audit exercise, the Assembly's Internal Audit Department issued only one (1) report for the year. This was contrary to the Public Finance Management (County Governments) Regulations 2015 that require the internal audit to carry out regular audits and issue quarterly reports thus the effectiveness of the internal audit unit in carrying out its oversight role is doubtful.

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

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COUNTY ASSEMBLY OF KISUMU – NO.42

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

466. Misclassified Payments

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflect acquisition of assets amount of Kshs.115,066,771. Included in the amount is an expenditure of Kshs.106,431,771 relating to reimbursement to Members of the County Assembly (MCAs) which has been misclassified as acquisition of assets. The misclassifications have not been corrected.

In the circumstances, the accuracy of the acquisition of assets balance of Kshs.115,066,771 could not be confirmed.

467. Unconfirmed Other Pending Payables

Annex 3 to the financial statements discloses other pending payables balance of Kshs.52,689,784, which include an amount of Kshs.30,760,521 relating to Car Loan and Mortgage unremitted deductions and retention to contractors amount of Kshs.21,929,263. However, review of pending bills as at 30 June, 2024 revealed the following inconsistencies:

(i) The assembly did not provide support documents such as schedules, agreements, bank statements and reasons for the deductions amounting to Kshs.30,760,521 as unremitted deductions due to car loan and mortgage dating from financial year 2016/2017. Further, there was no evidence provided to confirm when the deductions from the members were done.

(ii) The deductions were dues to Members of the County Assembly that had left office after the general elections and the County Assembly had no clear budget as well as plan on management of the long overdue payables.

(iii) An amount of Kshs.18,729,354 relating to retention for construction of ultra-modern Assembly as reported in their financial statements could not be confirmed as details of certificates settled and contract agreements to confirm the existence of the pending bills were not provided. In addition, there is no evidence to show that regular accounts payable reconciliations are performed and efforts made towards the settlement of the pending bills.

In the circumstances, the accuracy and completeness of other pending payables balance of Kshs.52,689,784 could not be confirmed.

468. Unsupported Training Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.394,844,450 as disclosed in Note 3 to the financial statements. Included in the amount is training expenses totalling Kshs.24,736,556 which includes an amount of Kshs.9,432,158 paid to Kenya School of Government. However, the list of participants,

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training programs, timetable, attendance register and requisition from the user department was not provided for audit review.

In the circumstances, the accuracy and occurrence of the training expenditure of Kshs.24,736,556 could not be confirmed.

Emphasis of Matter

469. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (Recurrent and Development combined) reflects final receipts budget and actual on comparable basis of Kshs.1,140,311,910 and Kshs.836,065,890 respectively, resulting to underfunding of Kshs.304,246,020 or 27% of the budget.

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

My opinion is not modified in respect of this matter.

Other Matter

470. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

471. Irregularities in Human Resource Management

471.1. Non-Compliance with the One-Third of Basic Salary Rule

Review of the payrolls together with other documentation provided for audit for the year under review, revealed that two hundred and eighty-eight (288) employees earned a net salary of less than one-third of the basic salary. This is contrary to Section 19(3) of the Employment Act, 2007, which states that the total amount of deduction of the wages of an employee shall not exceed two-thirds (2/3) of such wages.

471.2. Payment of Salaries Outside the IPPD System

Review of payroll information provided for audit review revealed that County Assembly paid salaries totalling to Kshs.8,069,346 through the manual payroll outside the Integrated Payroll and Personnel Database (IPPD) system. This was contrary to the National Treasury Circular No. 13/2012 dated 28 August, 2019 which requires personnel emoluments to be controlled in the public personnel database and supported by IPPD.

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471.3. Delays in Remittance of Statutory Deductions

Review of payment vouchers and other information provided for audit review revealed that Management did not comply with deadlines for remittance of statutory deductions amounting Kshs.66,288,787 relating to Pay as You Earn, Pension Deductions, Loan Recoveries and Car loan and Mortgage Deduction of Kshs.36,845,601, Kshs.7,609,037, Kshs.4,818,447 and Kshs.17,015,702 respectively. This is contrary to Section (5)(a) of the Income Tax Act CAP 470 which stipulates that where a person deducts tax he shall on or before the twentieth day of the month following the month in which the deduction was made, remit the amount so deducted to the Commissioner.

471.4. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees on the County Assembly's payroll were 95 out of which 83 representing 87% of the total number were from one dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integrity Act, 2008 which states that, all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community.

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

472. Delayed Completion of the Projects

Review of documents provided for audit revealed that the construction of ultra-modern Kisumu County Assembly Chambers and offices and associated works started on 18 January, 2022. The contract agreement was signed on 19 January, 2022, this was the contract start date which was to run till 18 January, 2024 with a contract sum of Kshs.418,356,349. A total of Kshs.187,293,539 had been paid to the contractor vide certificates 1,2,3 and 4.

However, physical verification conducted in September 2024, revealed that the construction was incomplete and the contractor had abandoned the site. The physical progress of work done was approximately 48% and there was no progress report or revised work programs indicating how the remaining works will be carried out.

In the circumstances, the County Assembly has not achieved value for money from the expenditure of Kshs.187,293,539 in the construction of the chambers.

473. Delayed Construction of Speaker's Residence

A company was contracted for the construction of the proposed construction of Speaker's official residence on 18 January, 2021 at a contract sum of Kshs.34,098,539. The contract period was five months starting on 18 January, 2021 to 18 May, 2021. Review of the technical report of 26 April, 2022 and the payment certificates availed for audit revealed a total payment of Kshs.31,999,583 has been made to the contractor, which is at 95% completion.

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Further, extensions of the contract period which had expired on 18 May, 2021 and extended to 30 November, 2021 had also expired. Physical verification carried out in the month of September, 2024 revealed that the contractor had abandoned the site.

In the circumstances, the County Assembly may have achieved value for money from the expenditure of Kshs.31,999,583 on the Speaker's residence.

474. Irregularities in Foreign Travel and Subsistence Allowances

The statement of receipts and as indicated in Note 3 payments reflects an amount of Kshs.394,844,450 relating to use of goods and services. The amount includes expenditures on foreign travel and subsistence of Kshs.33,764,928**.** Review of the expenditure revealed the following unsatisfactory issues:-

474.1. Foreign Travel and Subsistence

The balance includes an amount of Kshs.1,397,400 paid in respect of Multipurpose visit to Amarillo, Texas USA by three (3) Members of the County Assembly for nine (9) days. Although the trip had been authorized by the Ministry of Devolution, this was contrary to the circular that restricted foreign travel to seven (7) days including traveling days.

474.2. Facilitation of Study Tour Visit

Further, the balance includes amounts of Kshs.3,529,639 and Kshs.4,004,917 that were incurred by Members of the County Assembly Medical Services and Public Health Committees respectively who attended a study tour visit in Uganda as a benchmarking trip. However, the trip was contrary to the Circular no: OP/CAB.308/018 dated 2 October, 2023 on suspension of non-essential travels.

474.3. Facilitation on Invitation to Familiarization Tour

In addition, the balance includes an amount of Kshs.1,010,655 paid in respect to familiarization tour to Uganda Chamber of Commerce by three (3) Members of the County Assembly. The trip was contrary to the Circular no: OP/CAB.308/018 dated 2 October, 2023 on suspension of non-essential travels.

In the circumstances, the regularity of foreign travel and subsistence of Kshs.33,764,928 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

475. Failure to Maintain an Updated the Assets Register

Review of the County Assembly's asset register revealed that Kisumu County Assembly procured fifty (50) IPADs worth Kshs.7,975,000 in the year 2017/2018 financial year, and were issued to Members of the County Assembly (MCAs) and were supposed to return them back at the end of their term. However, physical verification carried out in the month of September, 2024 revealed that these items are in the assets register but could not be

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traced. No reasons were provided by Management for failure to remove the IPADs from the Assets Register.

In absence of an updated fixed assets register, the assets are susceptible to loss without being noticed.

476. Effectiveness of the Audit Committee

During the year under review, the Audit Committee held only three meetings to discuss prior year last quarter report as opposed to the minimum four quarterly meetings contrary to Regulation 172(1) of the Public Finance Management (County Governments) Regulations, 2015, which stipulates that the Audit Committee should meet at least quarterly including one to review the financial statements before they are submitted to external auditors and one to meet with the external auditors.

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

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COUNTY ASSEMBLY OF HOMA BAY– NO.43

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

477. Unexplained Variance on Compensation of Employees

The statement of receipts and payments Note 3 reflects compensation of employees amount of Kshs.415,948,798 as disclosed in Note 3 to the financial statements. However, recomputation of payroll summaries for the year revealed gross salaries totalling Kshs.457,584,820, resulting in an unexplained variance of Kshs.41,636,022. Further, the compensation of employees' costs includes an amount of Kshs.84,642,830 processed outside the Integrated Payroll and Personnel Database (IPPD) system.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.415,948,798 could not be confirmed.

478. Unsupported Expenditure Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.389,612,601, as disclosed in Note 4 to the financial statements. However, the following anomalies were noted:

478.1. Un-Vouched Payments

The balance includes payments totalling Kshs.40,631,449 relating to domestic travel and subsistence, foreign travel and subsistence, training expenses, hospitality and supplies, other operating expenses and routine maintenance-other asserts for which payment vouchers were not provided for audit review.

478.2. Unsupported Domestic Travel and Subsistence Expenses

Further, the balance includes domestic travel and subsistence amount of Kshs.252,493,880. However, examination of payment vouchers revealed that three hundred and seventy-five (375) payment vouchers amounting to Kshs.31,258,900 were not supported with the requisite documents such as imprest warrants, Electronic Tax Register (ETR) receipts, approvals, invoices and back-to-office reports.

The domestic travel and subsistence expenditure also includes an amount of Kshs.1,988,000 which was not adequately supported with the requisite documents such as back-to-office reports, minutes of meetings, attendance registers, work tickets and invitations to the activities.

478.3. Unsupported Fuel, Oil and Other Lubricants

In addition, the balance includes fuel, oil and lubricants expenditure of Kshs.4,086,580. However, work tickets for six (6) months in respect of two (2) vehicles were not provided for audit.

Further, fuel records revealed that 1,829.4 liters of diesel fuel valued at Kshs.347,747 used by the generator set was not recorded in the bulk fuel ledger were not maintained.

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In the circumstances, the accuracy and completeness of the use of goods and services amount of Kshs.389,612,601 could not be confirmed.

479. Unconfirmed Cash and Cash Equivalents Balance

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.13,945,240 held in six (6) bank accounts as disclosed in Note 9A to the financial statements. However, the respective bank reconciliation statements and cash book extracts for June, 2024 were not provided for audit.

In the circumstances, the completeness and accuracy of the reported cash and cash equivalents balance of Kshs.13,945,239 could not be confirmed.

480. Unsupported Contingent Liabilities

Note 3 under other important disclosures reflects contingent liabilities balance of Kshs.97,036,519. The balance was, however, not supported by analysis showing the nature of each contingent liability Court proceedings status or judgements and how the liabilities accrued to the County Assembly.

In the circumstances, the accuracy and completeness of the contingent liabilities of Kshs.97,036,519 could not be confirmed.

481. Unsupported Voided Transactions

The statements of receipts and payments reflects total payments of Kshs.1,011,186,327. Review of the financial records revealed that fifty-one (51) transactions in IFMIS amounting to Kshs.29,789,741 were voided. Review of the Integrated Financial Management Information System (IFMIS) ledger records revealed transactions totalling Kshs.21,550,132 were initiated but later voided without any justification.

In the circumstances, the accuracy and fair presentation of the statement of receipts and payments could not be confirmed.

482. Variance in Pending Bills Balance

Note 1 under other important disclosures to the financial statements and Annex 1 reflect pending accounts payable balance of Kshs.154,944,898 as at 30 June, 2024. The balance comprises an amount of Kshs.84,561,416 brought forward balance as at 1 July, 2023, addition during the year of Kshs.118,112,735 and payments during the year of Kshs.47,729,253. However, re-computation of the unpaid balance revealed an amount of Kshs.107,475,103 resulting in an over statement by Kshs.47,469,795. Further, the supporting payment documents revealed that out of the opening balance of Kshs.84,561,416, a balance of Kshs.3,561,756 was paid during the year, while the remaining balance of Kshs.80,999,662 was carried forward to 2024-2025 financial year. As a result, Management prioritized payments of bills that were incurred during the year under review instead of bills brought forward from the previous year, contrary to the provision of Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015. The Regulation stipulates that debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done

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to the extent possible that the county government does not default on debt obligations. In addition, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent years as they form a first charge.

In the circumstances, the accuracy and regularity of the pending bills balance of Kshs.154,944,898 could not be confirmed.

Emphasis of Matter

483. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development reflects total receipts budget and actual on comparable basis amounts of Kshs.1,205,017,905 and Kshs.1,012,405,450 respectively resulting to underfunding of Kshs.192,612,455 or 16% of the budget. Review of annual budgets, and annual development reports revealed that budget provisions totalling Kshs.101,000,000 allocated for non-residential Buildings (offices, schools and hospitals) and refurbishment of residential buildings were not implemented during the year under review.

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

My opinion is not modified in respect of this matter.

Other Matter

484. 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. However, Management had not resolved the issues or given any explanation for the failure to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

485. Irregularities in Human Resource Management Practices

485.1. Non-Compliance with the One-Third of Basic Salary Rule

Analysis of payroll for July, 2023 revealed that seventeen (17) employees received net salary which was less than one-third of their respective basic salaries. This was contrary to the provision of Section 19(3) of Employment Act, 2007, which provides that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

485.2. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of the Integrated Payroll and Personnel Database and personal files revealed that the County Assembly had a total of two hundred and fifty (250) employees, out of whom two hundred and forty-seven (247) or 99% were from the dominant ethnic community. This was contrary to the provisions of Section 7(2) of the National Cohesion and

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Integration Act, 2008, which provides that no public establishment shall have more than one-third of its staff from the same ethnic community.

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

486. Weakness in Imprest Management

The statement of receipts and payments reflects use of goods and services amount of Kshs.389,612,601 which, as disclosed in Note 4 to the financial statements includes domestic travel and subsistence, and foreign travel and subsistence amounts of Kshs.252,493,880 and Kshs.6,885,905, respectively all totalling Kshs.259,379,785. The following anomalies were noted:

486.1. Allowances Paid Without Issuing Imprest Warrants

Imprest warrants in support of the payments of Kshs.259,379,785 were not provided for audit. This was contrary to Regulation 91(2) of the Public Finance Management (County Governments) Regulations, 2015, which requires an officer authorized to hold and operate an imprest to make formal application for the imprest through an imprest warrant.

486.2. Issuance of Multiple Imprests

Review of the Imprest registers revealed that seven (7) officers were issued with additional imprests during the year, leading to overlaps, contrary to Regulation 93(4)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that before issuing temporary imprest under paragraph (2), the Accounting Officer shall ensure that the applicant has no outstanding imprests.

Further review of the imprest register revealed that eight (8) officers took multiple imprests amounting to Kshs.1,129,000, which was still outstanding at the time of the audit. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015, which requires a holder of a temporary imprest to account or surrender the imprest within seven (7) working days after returning to duty station.

486.3. Imprests Not Recorded in the Imprest Register

Further, imprests issued amounting to Kshs.176,676,030 were not recorded in the imprest register contrary to Regulation 93(4)(c) of the Public Finance Management (County Governments) Regulations, 2015. The Regulation provides that before issuing temporary imprests the Accounting Officer shall ensure that the applicant's imprest has been recorded in the imprest register, including the amount applied for.

486.4. Unjustified Committee Allowances and Expenses

During the year under review, an amount of Kshs.30,615,200 was paid as allowances to the staff and members of the County Assembly to facilitate them in various routine normal activities that could have been done within the precincts of the County Assembly Headquarters.

In the circumstances, Management was in breach of the law and value for money may not have been realized from the expenditure.

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487. Irregularities in the Procurement and Award of Contracts

487.1. Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.26,314,678 as disclosed in Note 7 to the financial statements. The following unsatisfactory matters were noted:

487.1.1. Delayed Construction of Speaker's Residence

The amount of Kshs.26,314,678 includes construction of buildings amount of Kshs.8,641,116 out of which, a total of Kshs.6,346,106 was in respect of a contract to construct the Speaker's residence awarded at a contract sum of Kshs.32,000,000. The contract was to begin on 23 March, 2023 and end on 24 March, 2024. The contractor had been paid a total of Kshs.13,446,678 as at 30 June, 2024. However, a title deed for the land was not provided for audit. Further, the contract period had expired by the time of audit in September, 2024 and the contractor had moved out of the site leaving incomplete works at the slab of the first floor.

487.1.2. Incomplete Repair Works and External Toilet

The amount of Kshs.26,314,678 includes expenditure of Kshs.4,574,132 in respect of contracted repair works and external toilet, awarded at a contract sum of Kshs.4,726,472. Although a certificate of practical completion was issued, physical inspection of the project on 2 September, 2024 revealed that the construction was not complete, and the contractor was not on site. The outstanding works included unfitted doors and wall finishes. Management did not explain why a completion certificate was issued for incomplete works.

487.1.3. Incomplete CCTV Installation

The amount of Kshs.26,314,678 includes a total of Kshs.4,574,132 in respect of a contract for supply, delivery, installation, testing and commissioning of Structured Cabling, IP PBX, CCTV, Access Control and Audio-Visual Works, awarded at a contract sum of Kshs.4,715,600. A certificate of completion for the full contract was issued and payment of the full contract sum was made. However, some works in the Bill of Quantities specifications were not done. Further, there was an existing system which was to be replaced. However, the materials were not accounted for as the parts were not identified, recorded and boarded or disposed of as per the provisions of the Public Procurement and Asset Disposal Act, 2015.

In addition, there was no Inspection and Acceptance Committee report for the works and goods delivered. It was also noted that the Assembly did not have control over the system as administration rights and privileges were still with the vendor, indicating that the handing over had not been done.

487.1.4. Incomplete Drainage, Renovation and Landscaping

The amount of Kshs.26,314,678 includes a total of Kshs.3,091,694 relating to a contract for drainage, renovation and landscaping awarded at a contract sum of Kshs.3,187,313. However, although the whole amount was paid as certified, the landscaping was not

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completed, including soft landscaping. Further, at the time of the audit, the contractor was not on site.

In the circumstances, the value for money from the expenditure of Kshs.26,314,678 on acquisition of assets could not be confirmed.

488. Failure to Fully Implement E-Procurement

Review of procurement records and sampled payment vouchers revealed some procurements were done outside the Integrated Financial Management Information System (IFMIS), contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020, which states that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

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

489. Projects Implementation Status

489.1. Delayed Completion of Projects

Review of the project implementation status revealed that four projects listed below whose completion dates as per the contract agreements had elapsed had stalled at different levels of execution as indicated below:

Project Name	Contact Sum (Kshs)	Amount Paid (Kshs)	Percentage of Contract Sum Paid	Findings
Construction of committee rooms within the Assembly compound	13,365,990	13,309,990	100%	Some works were still pending although status report indicated that the project was complete
Proposed renovation works at Homabay Assembly	8,749,097	8,749,097	100%	Some works were still pending although status report indicated that the project was complete
Proposed fencing works – Homabay Assembly offices	6,141,600	6,141,600	100%	Some works were still pending although status report indicated that the project was complete
Proposed construction of MCAs offices	348,927,840	66,714,925	19%	The project had stalled

Further, no evidence was provided to confirm whether public participation was conducted in respect of these projects.

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In the circumstances, value for money from funds invested in the delayed projects could not be confirmed.

489.2. Delayed Ward Offices Projects

Examination of procurement documents revealed that several projects for the construction of Ward Offices was awarded to various contractors at contract sums amounting to Kshs.69,400,721. The constructions were to commence on 1 April, 2024 and end on 11 December, 2024.

However, audit review of the projects on 4 September, 2024, revealed that there was no proof that the projects had been started as scheduled since no certificates, technical projects' progress reports or details of payments made on the contracts were provided for audit. Further, no evidence provided of public participation validating the projects before the projects were undertaken. In addition, ownership documents of the parcels of land were not provided for audit review.

In the circumstances, the value for money realized from the expenditure associated with the projects could not be confirmed.

490. Avoidable Legal Claims, Penalties and Interests

The use of goods and services amount of Kshs.389,612,601 includes other operating expenses of Kshs.55,626,891 out of which, an amount of Kshs.5,570,000 was in respect of legal costs. Review of documents and payment vouchers relating to legal expenses revealed that the County Assembly incurred expenditure of Kshs.7,162,548 out of which a total of Kshs.5,570,000 was paid. However, the legal fees were in respect of penalties and interests imposed for failure to pay Court claims awarded. The County Assembly attributed the delay in settling Court awards and claims to lack of adequate funds. Failure to pay the supplier on time led the County Assembly to incur wasteful expenditure which could have been avoided had the Management acted on the Court ruling on time.

Further, review of the unapproved list of Court cases provided for audit revealed that it was not updated as it lacked key details such as dates, amount, name of the legal firm, and cost implication among others.

In the circumstances, the value for money realized from the expenditure of Kshs.5,570,000 could not be confirmed.

491. Avoidable Bank Overdraft Fees and Penalties

The statement of receipts and payments reflects use of goods and services amount of Kshs.389,612,601 which, as disclosed in Note 4 to the financial statements includes other operating expenses of Kshs.55,626,891 out of this amount, a total of Kshs.2,366,770 was bank overdraft fees or penalties. The County Assembly arranged with a local bank to operate a salary account allowing the bank to pay the staff salary at a fee or penalty in cases of late salary disbursements. The expenditure of Kshs.2,366,770 could have been avoided had the salary disbursements been made on time.

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Further, no evidence was provided to confirm that the overdraft that occasioned the penalties was guaranteed by the National Government as required by Regulation 177(2) of the Public Finance Management (County Governments) Regulations, 2015. In addition, no evidence was provided to prove that the Co-operative Bank account was approved by The National Treasury.

In the circumstances, the value for money realized from the expenditure of Kshs.2,366,770 could not be confirmed and Management was in breach of the law.

492. Non-Compliance with Fiscal Responsibility Principle

The total approved expenditure for the County Assembly amounted to Kshs.1,011,186,328 or 11% of the total County Government's revenues of Kshs.8,829,691,136 which exceeded the set threshold of 7% by Kshs.393,107,948. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which states that the approved expenditures of a County Assembly shall not exceed seven percent of the total revenues of the County Government or twice the personnel emoluments of that county assembly, whichever is lower.

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

493. Irregular Payments to County Assemblies Forum

The statement of receipts and payments reflects use of goods and services amount of Kshs.389,612,601 which, as disclosed in Note 4 to the financial statements, includes other operating expenses of Kshs.55,626,891 out of which, an amount of Kshs.1,300,000 was paid to the County Assemblies Forum (CAF). However, the subscriptions was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this act shall be provided for in the annual estimates of the revenue and expenditure of the national government.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

494. Weak Internal Controls on Payments

Review of a sample of payment vouchers in respect of foreign travel and subsistence claims revealed that payments totalling Kshs.2,851,570 were paid as reimbursements without examination, vote book control, AIE holder certification and authorization by the Accounting Officer.

In the circumstances, the effectiveness of internal controls over the processing of reimbursement claims could not be confirmed.

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495. Weaknesses in Management of Cash

Review of internal controls over cash and cash equivalents revealed the following weaknesses:

i. Regular bank reconciliations were not prepared, checked, approved, or submitted to the County Treasury on a timely basis.

ii. Although some of the Departments applied a standing imprest system, there was no evidence of approved cash floats to control the imprests.

iii. Although the County Assembly uses the IFMIS system, the cash books were prepared in MS Excel, which are prone to errors, inaccuracies and manipulations.

iv. Some procurements of the items and services were done through cash imprests which may be abused or used to circumvent the procurement laws. It was noted that although most of the procured items were within the low-cost procurements (Kshs.50,000 and below), the high frequency of purchases may have been used to split procurements. Further, some payments/receipts or invoices were not supported by Electronic Tax Register (ETR) receipts casting doubt on their authenticity.

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

496. Lack of Approved Human Resource Manual

Management provided for audit a Human Resource Management Policy Manual dated March, 2021, which was not supported by approval by the County Assembly Services Board. Further, the County Assembly suspended two (2) officers on the basis of the HR manual. However, the personal files of the officers did not specify reasons for the suspension and interdiction, and did not have minutes and report of the Staff Advisory Committee and minutes of the County Assembly Services Board on the suspensions.

In the circumstances, effectiveness of human resource management processes in the County Assembly could not be confirmed.

497. Weakness in Internal Audit Function

Review of the Internal Audit function revealed the following anomalies:

i. The County Assembly did not have a clear organization and reporting structure for the internal audit.

ii. Although twelve (12) Internal Audit reports for the year under review had not been addressed, there were no clear timelines on when such reports would be acted upon.

iii. The Audit Committee members met only three times for introductions and induction meetings. There was no evidence that they discussed any of the Internal Auditor's report in the quarterly meetings.

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iv. There were no reports about the review of the financial statements, the IFMIS transactions and the IPPD systems.

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

498. Lack of Information Communication and Technology (ICT) Policy and Business Continuity Plan/Data Recovery Mechanism

The County Assembly did not have an approved ICT Policy for the management of its ICT resources. There was no Data Security Policy, Disaster Recovery Plans and approved Business Continuity Plan, data backups outside its premises or appropriate data recovery mechanism in case of data loss. Further, the County Assembly did not have ICT Steering Committee for ensuring effective ICT controls and strategies. Due to the lack of an approved framework, users may not have any rules and procedures to follow to minimize the risk of errors, fraud, and data loss. Management also did not provide licenses for applications and other software used by the Assembly

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

499. Weaknesses in the Management of Fixed Assets

Audit of fixed assets revealed the following anomalies:

i. Management did not maintain a complete fixed assets register to record necessary information such as date of acquisition, type of assets, supplier name, costs, accumulated depreciation, net book values, value, asset codes, custodian and location and other details for the County Assembly's assets.

ii. The County Assembly had several completed buildings, or works in progress and parcels of land at its headquarters and other locations within the County. Similarly, details of the land size, values and the ownership documents or title deeds for the parcels of land were not provided for audit.

iii. The assets were not tagged, while the assets movement register was not updated.

iv. Several obsolete items had not been marked for disposal.

v. No handover report was provided to confirm land, buildings, motor vehicles and other assets from the defunct local authorities.

In the circumstances, the effectiveness of internal controls, risk management over fixed assets and overall management of fixed assets could not be confirmed.

500. Lack of Approved Strategic Plan and Risk Management Strategy

The County Assembly did not have an approved Strategic Plan in place to provide guidance on the broader objective that are to be achieved and the responsibilities as stipulated in Section 149(2)(g) of Public Finance Management Act, 2012. Further the

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County Assembly had not developed a Risk and Fire Management Strategy as required under provisions of Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management's preparedness to mitigate against risks in case of losses or interruptions of operations could not be confirmed.

501. Lack of Approved Staff Establishment

During the year under review, the County Assembly Services Board did not provide an approved Staff Establishment for the County Assembly, indicating the optimum number of employees the County Assembly should have, the various cadres and the number of staff under each job group. This was contrary to Section 25(1) of the County Services Board Act, 2017 which stipulates that the Board shall formulate and disseminate to officers, schemes of service setting out the terms and conditions for the appointment of the officers and other staff of the Service.

In the circumstances, the existence of an effective mechanism to manage human resources could not be confirmed.

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COUNTY ASSEMBLY OF MIGORI – NO.44

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

502. Inaccuracies in the Financial Statements

502.1. Variances Between the Financial Statements and the IFMIS Ledgers

Review of the financial statements presented for audit revealed variances with the IFMIS ledgers as shown below which were not explained or reconciled.

Component / Sub Component	Financial statements Amount (Kshs.)	IFMIS Ledgers Amount (Kshs.)	Variance (Kshs.)
Hospitality Supplies and Services	23,539,227	24,104,000	(564,773)
Routine Maintenance – Vehicles and Other Transport Equipment	354,710	600,000	(245,290)
Office and General Supplies and Services	9,572,785	4,826,097	4,746,688
Legal Fees and Dues	10,131,987	13,178,879	(3,046,892)
Training and Travel Expenses	3,400,000	1,950,000	1,450,000
Transfers to County Government Entity (CRF)	2,698,770	-	2,698,770
Imprests and Advances-Government Imprests	3,307,495	-	3,307,495
Pending Accounts Payable-Additions for the year	69,361,283	-	69,361,283
Pending Accounts Payable-Paid during the year	17,274,694	-	17,274,694

502.2. Misclassified Expenditure Accounts

The statement of receipts and payments reflects payments totalling Kshs.991,170,024 incurred during the year. However, analysis of the IFMIS data revealed that payments amounting to Kshs.332,639,613 did not relate to the respective sub-components to which they were charged, contrary to Regulation 40(1) of the Public Finance Management (County Governments) Regulations, 2015, which requires budget estimates to be prepared, accounted for and reported in accordance with the Government of Kenya budget classification and standard chart of accounts issued by The National Treasury.

502.3. Non-Disclosure of Retention Monies

The statement of financial assets and liabilities reflects net financial position balance of Kshs.3,307,495 at year end. However, examination of documents revealed that contractor's retention money amounting to Kshs.2,636,694 outstanding was not disclosed

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in the financial statements. This was contrary to the requirements of the reporting templates that retention money be disclosed in the financial statements.

In the circumstances, accuracy and completeness of the financial statements for the year ended 30 June, 2024 could not be confirmed.

503. Unsupported Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees amount of Kshs.378,680,438, which includes an amount of Kshs.10,426,800 whose supporting documents were not provided for audit. Further the balance includes Assembly Committee sittings allowances amounting to Kshs.88,508,683 for which Management did not provide approvals, payment vouchers and confirmation of receipts of payments by intended beneficiaries.

In the circumstances, the accuracy and completeness of the compensation of employees amounting to Kshs.378,680,438 could not be confirmed.

504. Voided Transactions in IFMIS

Review of expenditure analysis obtained from Integrated Financial Management Information System (IFMIS) revealed that seven hundred and seventy-seven (777) payment transactions amounting to Kshs.38,879,291 had been invalidated during the year under review. However, the supporting documents including voided payment vouchers, requests to void payments, The National Treasury approval, Exchequer requisitions from the Controller of Budget and reasons for invalidation of the transactions which had been presented to the Controller of Budget (CoB) for approval were not provided for audit. Further, the voided payments were not disclosed as pending accounts payable and the utilization of funds meant for the voided transactions could also not be confirmed. In addition, it was not confirmed whether there were unauthorized payments made in place of those that were invalidated.

In the circumstances, the regularity and completeness of payments made during the year against the voided transactions could not be confirmed.

505. Unsupported Cash Transfers

The statement of financial assets and liabilities and as disclosed in Note 9A to the financial statements indicates three (3) bank accounts held in a local bank. Examination of payment vouchers provided for audit revealed that the County Assembly transferred funds totalling Kshs.19,334,774 as payments for Ward operations. Out of this balance, an amount Kshs.13,108,320 was transferred to forty (40) ward accounts, while Kshs.6,226,452 was transferred to nineteen (19) accounts owned and operated by the nominated members of the County Assembly. However, Management did not provide details of the bank accounts, cashbooks, bank account balances as at 30 June 2024 and the reference number and date of the County Treasury, letter granting approval for opening and operating the bank account, as required by Regulation 87 (3) and (4) of the Public Finance Management (County Governments) Regulations, 2015. Further, a register of all bank accounts operated by the County Assembly including the reasons for their operation was not provided. In addition, Management has not provided authority

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supporting the transfer of the amounts to the personal bank accounts of the nominated MCAs and how the funds were accounted for.

In the circumstances, the accuracy and completeness of the transfers totalling Kshs.19,334,774 could not be confirmed.

Emphasis of Matter

506. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development reflects final receipts budget and actual on comparable basis amounts of Kshs.1,103,508,709 and Kshs.994,477,519 respectively, resulting in underfunding of Kshs.109,031,190 or 10% of the budget.

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

My opinion is not modified in respect of this matter.

Other Matter

507. Unresolved Prior Year Matters

In the audit 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 of Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

508. Irregularities in Human Resource Management Practices

508.1. Unremitted Housing Levy Payroll Deductions

Audit examination revealed that management deducted housing levy from employee's payroll amounting to Kshs.7,913,784 but had not remitted to Kenya Revenue Authority (KRA) on the due dates. Further, the amount has not been disclosed as pending bills under accounts payables. The Assembly is exposed to the risk of incurring interest and penalties for the late remittances.

508.2. Non-Compliance with National Cohesion Integration Act, 2008

The County Assembly had a total of two hundred and twenty-two (222) employees in its payroll from eight (8) ethnic communities. From the population of the two hundred and twenty-two (222) employees, three (3) were person living with disabilities translating to 1.4% which is below 5% target as required by the law. Further, one ethnic community represented 77% of the employees contrary to the provisions of Section 7(1) and (2) of

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the National Cohesion and Integration Act, 2008 and Section 13 of Persons with Disabilities Act, 2003.

508.3. Non-Compliance with the One-Third of Basic Salary Rule

Analysis of the payroll of the County Assembly for the month of June, 2024 revealed that twenty-eight (28) employees net pay was below a third of their respective basic salaries, contrary to Section 19 (3) of the Employment Act, 2007 which provides that the total amount of deductions from the wages of an employee shall not exceed two thirds of such wages.

508.4. Irregular Payment of Allowances to Employees on Acting Capacity

The County Assembly has been paying acting allowances to three (3) officers for more than six (6) months without confirmation or advertisement of the vacancy. This is contrary to Section C.14(1) of Public Service Commission Human Resource Policies and Procedures Manual for the Public Service, 2016, which states that an employee who has successfully and continuously acted in a vacant position for a period of six (6) months and meets the job requirements will be deemed to have been confirmed in that position.

508.5. Irregular Recruitment of Employees

Review of personnel records revealed that the County Assembly Service Board advertised for the positions of Principal Legal Officer and Chief Sergeant-at-Arm posts with specific mandatory requirements and qualifications. However, verification of documents revealed that the Board recommended for filling of these positions for applicants who did not meet the mandatory criteria as set out in the job advertisement or the requirement for new appointment as per criteria in the County Assembly Scheme of Service, Terms and Conditions of Office. This was contrary to Section 25 (1) and (2) of the County Assembly Service Act, 2017 which stipulates that the Board shall formulate and disseminate to officers of the Service, Schemes of Service setting out the terms and conditions for the appointment of the officers and other staff of the Service which shall provide for the appointment and confirmation in appointment of officers and other staff and The Secretary shall be responsible for the administration of the Schemes of Service for the staff of the Service.

508.6. Non-Compliance with Fiscal Responsibility

The statement of receipts and payments reflects an amount of Kshs.378,680,438 in respect of compensation of employees as disclosed in Note 2 to the financial statements. However, the County Assembly had an approved budget of Kshs.1,003,508,709 which was more than twice the personnel emoluments of the County Assembly. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015, which states that the approved expenditures of a County Assembly shall not exceed seven percent of the total revenues of the county Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

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509. Non-Compliance with the Law on Framework Contract Agreement

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services amount of Kshs.336,600,049. Included is an amount of Kshs.22,050,554 in respect to hospitality supplies and services, and an amount of Kshs.10,131,987 in respect to legal fees and dues. The County Assembly procured the services through a framework agreement. However, the detailed analysis of quarterly reports on framework contract agreements were not provided for verification, contrary to the provisions of Section 114(6) of the Public Procurement and Asset Disposal Act, 2015 which provides that a procurement management unit shall prepare and submit to the Accounting Officer with a copy to the internal auditor quarterly reports detailing an analysis of items procured through framework agreements and these reports shall include, an analysis of pattern of usage, procurement costs in relation to the prevailing market rates and any recommendations.

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

510. Avoidable Legal Fees

The County Assembly incurred an amount of Kshs.10,131,987 on legal fees and dues. However, the following anomalies were noted:

(i) The Speaker of the County Assembly who was elected on 21 September, 2022 sued the Assembly in the matter of his illegal impeachment on 24 April, 2024 by the Members of the County Assembly. The Speaker asserted that the decision breached his fundamental rights and was unlawful. The court in its judgment awarded the Speaker general damages amounting to Kshs.10,000,000. Had the standing order procedures been adhered to, there would have been no petition and, therefore, the damages amounting to Kshs.10,000,000 would have been avoided.

(ii) A company that had rendered construction services to construct and complete the offices of the Member of the County Assembly for Central Kamagambo Ward sued the County Assembly. The Court ruled in favour of the contractor and ordered the County Assembly to pay the applicant. As a result the County Assembly incurred legal fee amounting to Kshs.218,460 which would have been avoided had the County Assembly paid for the construction services in time.

(iii) A company that had rendered construction services to construct and complete the offices of the Member of the County Assembly for Komosoko Nyamonsese Ward. The Court ruled in favour of the contractor and ordered the County Assembly to pay the applicant. As a result, the County Assembly incurred a legal fee amounting to Kshs.244,842 which would have been avoided had the Assembly paid for the construction services in time.

(iv) A company that had rendered construction services to construct and complete the offices of the Member of the County Assembly for East Ntimaru Ward. The Court ruled in favour of the contractor and ordered the Assembly to pay the applicant. As a result, the County Assembly incurred a legal fee amounting to

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Kshs.349,594 which would have been avoided had the Assembly paid for the construction services in time.

In the circumstances, value for money from the expenditure of Kshs.10,812,896 on legal fees could not be confirmed.

511. Over Establishment of Staff

Review of records revealed that the County Assembly had an approved staff establishment of one hundred and twelve (112) employees. However, review of the Integrated Payroll and Personnel Database (IPPD) and manual payrolls revealed that the County Assembly had workforce of two hundred and twenty-two (222) in place, leading to an over establishment of one hundred and ten (110) staff members. No need analysis, requisition, extra budget or justification was provided to support the extra number of staff.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

512. Lack of Audit Committee and Internal Audit Function

The County Assembly had no Audit committee and Internal Audit Workplan and Internal Audit Charter had not been approved for operationalization. This was contrary to Section 155 (1) of the Public Finance Management Act, 2012, which states that a County Government entity shall ensure that it complies with the Act and has appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board and Section 155(5) of the Public Finance Management Act, 2012 which requires that, a county government entity shall establish an internal auditing committee whose composition and functions are to be prescribed by the regulations.

In the circumstances, the County Assembly had not instituted internal controls to ensure efficiency and effectiveness of its operations.

513. Salaries Paid Outside the Integrated Payroll Personnel Database System

Review of the payroll revealed that the County Assembly paid an amount of Kshs.47,325,407 outside the Integrated Payroll Personnel Database System (IPPD) system to ten (10) MCAs, six (6) County Assembly Service Board (CASB) members, eighteen (18) permanent staff and eleven (11) contracted staff during the year. No satisfactory explanation was provided by Management for this anomaly. The use of the manual payroll requires manual input of data and calculation of deductions which is prone to errors and manipulation.

In the circumstances, the effectiveness of internal controls on payroll processing and risk mitigation on manual processing could not be confirmed.

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COUNTY ASSEMBLY OF KISII – NO.45

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

514. Undisclosed Amounts in the Trial Balance

The Trial Balance as at 30 June, 2024 reflected amounts that have not been incorporated in the financial statements for the period under review as detailed below:

Description	Amount (Kshs.)
Domestic Lending and On-lending	100,000,000
Cash in Hand	6,873,600,698
Domestic Debtors and Advances	426,666
Other Debtors and Pre-payments	2,079,056
Government Imprests	83,371,380
Other Liabilities	102,575,429
System Required Liabilities Accounts	2,500
Opening Balance Reserves	7,516,845,468

The balances represent below the line items that remained in the Trial Balance as a result of systemic challenges of automatic reconciliation in IFMIS.

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

515. Unsupported Basic Wages for Temporary Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.639,324,751 as disclosed in Note 4 to the financial statements. Included in the amount is basic wages for temporary employees amounting to Kshs.78,576,274 whose supporting documents were not provided for audit review.

In the circumstances, the occurrence and completeness of basic wages for temporary employees expenditure of Kshs.78,576,274 could not be confirmed.

516. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.469,132,565 as disclosed in Note 5 to the financial statements. Included in the amount are training expenses of Kshs.11,992,142 out of which, Kshs.3,221,140 was not supported by payment vouchers and other relevant documents. Further, the use of goods and services amount includes office and general supplies and services expenditure of Kshs.28,678,650 out of which an amount of Kshs.20,434,400 was paid in respect of

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supply of stationery to the County Assembly. However, the items were not taken on charge in the stores.

In the circumstances, the accuracy, occurrence and completeness of the use of goods and services expenditure of Kshs.23,655,540 could not be confirmed.

517. Unsupported Voided IFMIS Transactions

The statements of receipts and payments reflects total payments of Kshs.1,261,835,923. However, review of the financial transactions in the Integrated Financial Management Information System (IFMIS) revealed that three hundred and fifty-nine (359) transactions amounting to Kshs.51,812,112 were voided. However, the transactions were not supported by documents including voided payment vouchers, requests to void, The National Treasury approvals and Exchequer requisitions from the Controller of Budget. Further, reconciliation of voided payments to pending accounts payables and canceled payments were not provided for audit.

In the circumstances, the accuracy and completeness the total payments of Kshs.1,261,835,923 could not be confirmed.

Emphasis of Matter

518. Pending Accounts Payables

Note 1, under other disclosures, and as detailed in Annex 1 to the financial statements, discloses that the County Assembly had a pending bills balance of Kshs.73,185,395 as at 30 June, 2023. However, review of the pending bills records and schedules provided for audit revealed that the balance of Kshs.73,185,395 included Kshs.54,674,587 out of which, bills amounting to Kshs.24,490,880 were paid during the year under review, leaving a balance of Kshs.30,183,707, which was not paid as a first charge in the year under audit as required by Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015.

Failure to settle pending bills in the period they relate distorts the subsequent year's budget as they form the first.

My opinion is not modified in respect of this matter.

Other Matter

519. Unresolved Prior Year Matters

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

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520. County Assembly Preparedness for Transition to Accrual Accounting

Information provided indicated that the County Assembly had not implemented the prerequisites conditions for transitioning into accrual accounting, except for the training two (2) members of staff in the Finance Department. Further, The National Treasury had not configured the Integrated Financial Management Information System (IFMIS) to support accrual accounting.

In the circumstances, Management may not be adequately prepared to transition the County Assembly's financial statements for the year ending on 30 June, 2025 into accrual basis of accounting.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

521. Irregularities in Human Resource Management Practices

Review of human resource records revealed the following unsatisfactory matters:-

521.1. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of employee records and details in the main payroll revealed that the Assembly had one hundred forty-one (141) employees out of which, ninety-seven (97) were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008, which states that public establishments shall seek to represent the diversity of the people of Kenya in employment of staff and that no public establishment shall have more than one third of its establishment from the same ethnic community.

521.2. Staff Over-Establishment

Review of personnel records revealed that the County Assembly had one hundred and forty-one (141) employees which exceeded a maximum limit of one hundred and fifteen (118) employees set in the Commission on Revenue Allocation Circular No. CRA/FA/01 VOL 11 (22) dated 28 June, 2018, resulting in unauthorized employment of twenty-three (23) members of staff.

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

522. Irregular Procurement of Legal Services

Note 5 to the financial statements under use of goods and services amount of Kshs.469,132,566 discloses other operating expenses amount of Kshs.42,593,566. Included in the amount is legal fees of Kshs.1,800,000 paid to external advocates in respect of a Court case. However, review of the supporting documents revealed that the County Assembly used direct procurement method to source the external advocates, contrary to the provisions of Section 103 of Public Procurement and Asset Disposal Act, 2015.

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

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523. Incomplete and Delayed Projects

The statement of receipts and payments reflects acquisition of assets amount of Kshs.49,172,709 as disclosed in Note 10 to the financial statements. The following unsatisfactory matters were however noted:-

523.1. Delayed Construction of the Speaker's Official Residence

Included in the amount is Kshs.24,490,878 in respect of construction of buildings which relates to the construction of the Speakers official residence at a contract sum of Kshs.32,970,110. The contract commencement date was 6 August, 2023 with an expected completion date of 18 August, 2024. However, physical inspection on 29 August, 2024 revealed that the project was incomplete.

523.2. Incomplete Projects

The Assembly contracted the construction of a Library, an ICT Centre and procurement offices to host members of County Assembly Offices at a contract sum of Kshs.195,000,000 on 11 March, 2019, with expected completion date of 30 June, 2021. The certificate of practical completion was issued on 1 August, 2022 and the contract sum paid in full. However, physical verification in the month of August, 2024 revealed that the project was incomplete, one (1) year and three (3) months after the expiry of the contract period. The pending works included internal aluminum partitions, part office floor tiles, washrooms, entrance lobby and wall finish and civil works. Further, there was idle space on the first floor which was meant for cafeteria.

523.3. Incomplete Construction of Underground Water Tank

The acquisition of assets includes construction and civil works expenditure of Kshs.12,662,266 out of which, Kshs.10,883,849 was paid to the contractor in respect of a contract for the construction of reinforced concrete underground water tank and elevated steel tower, awarded at a sum of Kshs.10,578,848. The contractor was overpaid by Kshs.305,001. However, Management did not provide for audit review, documents in support of expenditure on provisional sums on mechanical works and pump installation of Kshs.1,000,000, contingency provisional sums of Kshs.872,083 and provisional sums on implementation and documentation of Kshs.452,368. Further, physical verification conducted in August, 2024 revealed that the project was incomplete in terms of piping and was not in use.

Management did not provide project status report for each of the above projects and the approved framework for monitoring and reporting on non-financial performance prescribed by the County Executive Committee Member responsible for matters relating to planning.

In the circumstances, the value for money realized from the expenditure could not be confirmed.

524. Stalled Construction of Ward Office at Bogiakumu

As reported in the previous audits, the County Assembly paid Kshs.6,004,289 out of a contract sum of Kshs.7,350,465 towards the construction of Bogiakumu Ward Office. The

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contract completion date was agreed to be 2 February, 2022. However, audit inspection on 29 August, 2024 revealed that the project was incomplete as external works, flooring and paintings had not been done. Management did not provide for audit review, the revised work plan and there was no evidence of contract extension.

In the circumstances, value for money has not been realized from the expenditure of Kshs.6,004,289 on the ward office.

525. Non-Compliance with Public Participation in the Budgeting Process

Review of public participation documents revealed that public participation was done on the Finance Bill in September, 2023 and on budget estimates in June, 2023. However, public participation meetings were only advertised in one Newspaper of County wide circulation. This was contrary to Regulation 7(2) of the Public Finance (County Governments) Regulations, 2015, which states that the County Executive Committee Member shall notify the general public through a notice in the gazette or at least two newspapers of county wide circulation on the venue or manner of submitting written submissions. Further, there was no evidence that the minutes presented were the actual views collected from the residents of the County. Documented views could not be linked to the approved budget and supplementary budgets.

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

526. Irregular Subscriptions to County Assembly Forum and Society of Clerks-At-The-Table

The other operating expenses amount of Kshs.42,593,565 under use of goods and services in Note 5 includes subscription fees of Kshs.3,000,000 paid to County Assemblies Forum (CAF) and Kshs.750,000 paid to the Society of Clerks-at-the-Table in Kenya SOCATT(K), totalling Kshs.3,750,000. However, the bodies do not draw their mandates from the Constitution of Kenya or an Act of Parliament. Therefore, Management violated Section 149(1)(a) of the Public Finance Management Act, 2012, which requires an accounting officer of an entity to be accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful, authorised.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

527. Incomplete Procurement Plan

The Procurement Plan presented for audit review did not contain details of activities to be undertaken but were rather aggregated together making it difficult to identify the specific planned goods and services for procurement. Further, the Procurement Plan did not clearly capture the timelines within which the procurements were to be commenced and completed. In addition, although a Supplementary Budget was prepared and approved during the period under review, the Procurement Plan was not revised to accommodate the changes.

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In the circumstances, the effectiveness of internal controls over the preparation of procurement plans could not be confirmed.

528. Ineffective Audit Committee

The County Assembly had an Audit Committee in place. However, the Committee held only one meeting in the year under review. This was contrary to Regulation 172(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the Audit Committee shall meet at least once in every three months. Further, the committee did not carry out any annual review of the independence, performance, and competency of the internal audit unit contrary to the provisions of Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the effectiveness of the Audit Committee in discharging its mandate and assurance under the effectiveness of internal controls, risk management and governance could not be confirmed.

529. Weak Internal Audit Function

The County Assembly had an Internal Audit function with six (6) staff members for reviewing internal controls, risk management, governance mechanisms and overall operations of the County Assembly for transparency and accountability. However, there were no internal audit reports on the state of risk management, control and governance within the County Assembly. Further, there was no approved Internal Audit workplan and Internal Audit Charter.

In the circumstances, the existence of effective internal control, risk management and governance systems could not be confirmed.

530. Lack of Effective Assets Management and Controls

Annex 2 to the financial statements on summary of non-current asset register reflects a balance of Kshs.688,895,764. However, review of the fixed asset register revealed that the relevant details relating to the parcels of land owned by the County Assembly, including land size, land values, date of acquisition, costs, accumulated depreciation, net book values, locations and codes, were not included in the asset register. Management did not provide title deeds for the parcels of land. It was not possible to confirm the ownership status and security of the County Assembly's land. Further, Management did not provide evidence that the County Assembly's major assets were revalued, and records of assets' counts and verification carried out at regular intervals to confirm existence and condition of the recorded assets. Most of the assets were not tagged and asset movement registers were not properly maintained.

In the circumstances, the existence of a proper control system and preventive mechanisms for assets to eliminate theft, security threats, losses, wastage, misuse, and ensuring that movement and conditions of the assets are recorded could not be confirmed.

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COUNTY ASSEMBLY OF NYAMIRA – NO.46

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

531. Unsupported Legal Expenses

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflect use of goods and services amounting to Kshs.248,837,687. The amount includes other operating expenses totalling Kshs.17,678,007 out of which an amount of Kshs.4,659,674 was in respect to legal fees. Review of records revealed that the County Assembly engaged private legal firms to represent the County Assembly in ten (10) matters without the approval of the County Executive Committee. This was contrary to Section 16(1) of the Office of the County Attorney Act, 2020 which specifies a department or public entity established within a county executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without the approval of the County Executive Committee.

Further, service level agreements, the itemised instructions given to the lawyers on the services required, copies of judgements, evidence that the legal firms actually represented the County Assembly, dates of commencement of the lawsuits and progress reports of the cases and certified valuation certificates on which the legal fees were based were not provided for audit.

In the circumstances, the accuracy and completeness of the legal expenses amount of Kshs.4,659,674 could not be confirmed.

Emphasis of Matter

532. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amounting to Kshs.914,979,149 and Kshs.767,033,615 respectively resulting in under-funding of Kshs.147,945,534 or 16% of the budget. However, the County Assembly spent Kshs.777,838,864 against actual receipts of Kshs.767,033,615 resulting to an over-expenditure of Kshs.10,805,249 of the actual receipts. The source of the excess expenditure over receipts has not been explained.

The under-funding affected implementation of the planned activities and may have impacted negatively on service delivery to the Public.

533. Pending Account Payables

Other disclosures Notes 1 and 2 to the financial statements reflects pending account payables and pending staff payables totalling Kshs.67,565,097 and Kshs.52,621,498 respectively. The outstanding amounts include payables balance of Kshs.45,231,445 in respect of construction of an office block and Kshs.2,457,540 in respect of construction the Speaker's residence. The office block project had a brought forward balance from 2022/2023 financial year of Kshs.39,855,551 which ought to have been paid as a first

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charge. This was contrary to Regulation 41(2) of the Public Finance management (County Governments) Regulations, 2015 which requires debt service payments to be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations.

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

My opinion is not modified in respect of these matters.

Other Matter

534. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

535. Unremitted Statutory Deduction

The pending staff payables includes Pay As You Earn (PAYE) deductions for May and June, 2024 amount of Kshs.11,822,958, NHIF amount of Kshs.301,000 and loan deductions and other deductions totalling Kshs.21,192,200 which had not been remitted to the beneficiary institutions as at 30 June, 2024. This was contrary to Income Tax Act CAP 470 and Section 19(1) of the Employment Act, 2007 which allows an employer to deduct from employee's salary any amount as a contribution to any fund or scheme approved by the Commissioner for Labour to which the employee has agreed to contribute to. Failure to remit statutory deductions on time may result in the County Assembly incurring interests and penalties.

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

536. Delayed Construction of County Assembly Offices

As previously reported, the County Assembly entered into a contract for the construction of a modern office block (5 storied building) that would host offices of the County Assembly and staff besides provision of other supporting amenities. The contract sum was Kshs.367,000,000 and the works commenced on 3 July, 2018 with expected completion date of 30 June, 2021. However, the completion date has been severally revised with the latest completion date set for 7 March, 2025. The scope of works included the construction of an office block, installation of lifts, waste water management, civil works and other associated works. Physical inspection of the project in September, 2024 revealed completed works which included the casting of the 1st floor to 5th floor roof slab, offices partitions, plastering and skimming works, external walling, painting, aluminium

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windows fixing, mechanical and electrical works and procurement of finishes material. However, review of records revealed that although the contractor was on site, 88% of works were certified and Kshs.224,678,748 paid leaving a balance of Kshs.45,231,445 as further disclosed in Annexure 1 to the financial statements.

In the circumstances, value for money may not be realized from the delayed works.

537. Delayed Completion of Speaker's Residence

The County Assembly entered into a contract with a local contractor to construct the Speaker's residence at a contract price amount of Kshs.34,377,805. The contract commenced on 06 February, 2023 with an expected completion date of 06 August, 2024. However, the project remained incomplete one month after the scheduled completion date and the contract period had not been extended. Further, the performance bond from a local bank provided by the contractor expired on 7 February, 2024 and had not been renewed.

Review of Project Status report issued on 28 May, 2024 revealed that the construction was 77% complete and payments totalling Kshs.24,158,208 had been made representing 70% of contract price. Physical inspection undertaken in September, 2024 revealed that the contactor was on site and construction was still in progress. However, internal and external finishes, plumbing, tiling, electrical works, interior fittings and painting were still not completed. Further, the contractor used cyprus door frames instead of mahogany door frames as was specified in the Bills of Quantities.

In the circumstances, value for money may not be realized from the delayed works.

538. Non-Compliance with the National Cohesion and Integration Act, 2008

Review of the payroll revealed that over ninety-nine percent (99%) of the one hundred and fourteen staff were from the dominant ethnic community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one-third of its staff from the same ethnic community in the County.

539. Non-Compliance with One-Third Rule on Basic Salary

Review of the payroll revealed that thirty-four (34) employees had salary deductions in excess of two-thirds of their basic salary. This was contrary to Section D22(2) of the County Public Service Human Resource Manual and Section 19(3) of the Employment Act, 2007 which requires that the total amount of deductions which may be deducted by an employer from the salary and wages of the employee at any one time shall not exceed two-thirds of the basic pay.

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

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540. Overpayment of Salary Market Adjustment

Review of payroll records revealed Member County Assembly (MCA) Majority/Minority Leader, Deputy Speaker and Speaker were paid monthly salary market adjustments of Kshs.12,750, Kshs.26,625 and Kshs.130,210 respectively for the months of July 2023, August 2023 and October 2023. This was contrary to Gazette notice No 10350 dated 9 August, 2023 which indicated the monthly remuneration structure for state officers in the County Assembly for implementation in the financial year 2023/2024 was Kshs.11,972 for MCA, minority/majority leader Kshs.26,530, Deputy Speaker Kshs.32,689 and Kshs.134,801 for the Speaker.

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

541. Irregular Purchase of Office Furniture

Review of procurement records revealed that the County Assembly paid an amount of Kshs.20,851,336 for supply of office furniture to eighteen (18) firms. Management split the procurements in quotations. The pending accounts payables further reflect an amount of Kshs.13,296,860 payable to nine (9) firms, remained unsettled. This was contrary to Section 43(1) of Public Procurement and Asset Disposal Act, 2015. Further, no evidence was provided that the enterprises were registered with The National Treasury and the advertisement relating to an open tender under a preference and reservations scheme stated the tender was open to small and micro enterprises and to disadvantaged groups registered with The National Treasury or regions, as appropriate.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

542. Lack of Approved Disaster Recovery and IT Strategic plans

Review of the County Assembly's ICT environment revealed that the ICT strategic plan expired in 2022 and a new ICT strategic plan had not been developed. Further, the County Assembly had not developed a Disaster Recovery Plan or Business Continuity Plans to ensure that County Assembly is able to respond to disaster or other emergencies affecting information systems and minimize the effect on business operations. In the absence of the plans, the operations of the County Assembly would be disrupted on occurrence of unfavorable events.

In the circumstances, the existence of effective internal controls and risk management in the mitigation of disruption of County Assembly operations could not be confirmed.

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543. Failure to Maintain Assets Register

Annex 3 to the financial statements on summary of current assets register reflects a balance totalling Kshs.642,609,831 in respect of various assets held by the County Assembly. However, the assets register was not updated and lacked identification or serial numbers, acquisition date, description of the asset, location, class and cost of the acquisition. The assets were also not tagged to ensure that proper control systems exist for assets and that movement and conditions of assets can be tracked. Further, the County Assembly had not taken over and or reported assets and liabilities inherited from the defunct Local Authorities.

In the circumstances, safe custody and accountability of County Assembly's assets could not be confirmed.

544. Ineffective Internal Audit and Audit Committee

The County Assembly had an Internal Audit Department and an Audit Committee in place. However, Management did not provide quarterly or annual internal audit reports and follow-up on the implementation of the recommendations by internal and external auditors.

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

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COUNTY ASSEMBLY OF NAIROBI CITY – NO.47

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

545. Inaccuracies in the Financial Statements

The statement of financial assets and liabilities reflects accounts payable – money owed to Fund account totalling Kshs.63,137,482. However, records provided revealed an amount of Kshs.83,241,832 as having been borrowed by the County Assembly from the Fund resulting to an unexplained variance of Kshs.20,104,350.

In the circumstances, the accuracy and completeness of the amount owed to the Fund totalling Kshs.63,137,482 could not be confirmed.

546. Unsupported Legal Expenses

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.853,400,059 which, as disclosed in Note 5 to the financial statements includes other operating expenses amounting to Kshs.97,715,716. The balance of Kshs.97,715,716 which further includes an amount of Kshs.62,547,421 paid as legal charges to eighteen (18) legal service providers. However, Management did not provide evidence on how the service providers were selected. Further, during the year under review, the County Assembly paid an amount of Kshs.5,298,000 to two (2) private legal service providers who were not in the prequalified list of suppliers. Documentary evidence showing how the legal firms were identified was not provided for review.

In the circumstances, accuracy and completeness payment for legal services amounting to Kshs.67,845,421 could not be confirmed.

547. Unsupported Prior Year Adjustments

The statement of financial assets and liabilities and as disclosed in Note 17 to the financial statements reflects prior year adjustments balance of Kshs.329,215,197 (2023:260,733,808). The balances include adjustments for bank account balances, imprest and advances, third party deposits/retention, and salary advances. However, there are no records and documentations in support of these adjustments. Further, the prior year adjustments should only relate to the comparative year.

In the circumstances, the accuracy of the prior adjusted balance of Kshs.329,215,197 could not be confirmed.

Emphasis of Matter

548. Pending Payables

Annex 1 and Annex 2 to the financial statements reflects pending payables totalling Kshs.513,949,253 as at 30 June, 2024. The pending payables comprise pending

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accounts payables of Kshs.302,361,990 and staff payables of Kshs.211,587,263. Nairobi City County Assembly cited liquidity problems due to inadequate provisions as the main reason for failure to settle the pending bills.

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

549. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: (recurrent and development combined) reflects final budget receipts and actual on comparable basis amounts of Kshs.2,680,000,000 and Kshs.2,005,014,296 resulting to an under funding of Kshs.674,985,704 or 25% of the budget. However, the County Assembly expended an amount of Kshs.1,994,404,032 against actual receipt of Kshs.2,005,014,296 resulting in an under expenditure of Kshs.10,610,259 or 0.5% of the actual receipts. Further, Management has not provided any explanatory notes for material deviations between the final budget and actual on comparable basis exceeding 10% in the statement of comparison of budget and actual amounts as required under Paragraph 24 of the International Public Sector Accounting Standards (IPSAS).

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

My opinion is not modified in respect of these matters.

Other Matter

550. 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 do so, as provided for in the reporting template prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

551. Receipt of Goods on Expired Local Purchase Order

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.853,400,059 as disclosed in Note 5 to the financial statements which includes an expenditure of Kshs.9,307,569 on routine maintenance – other assets. Review of records provided revealed that goods valued at Kshs.2,380,100 relating to supply and delivery of

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printer, hansard tools and equipment amounting to Kshs.898,110 and supply and delivery of photography and printing equipment of Kshs.1,482,000 were received by the County Assembly more than ninety (90) days from the date of issue of the Local Purchase Orders contrary to Regulation 52 of the Public Finance Management (County Governments) Regulations, 2015, which provides that a local purchase order or local service order shall be valid for a period of thirty days from the date of issue.

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

552. Non-Compliance with the One-Third of Basic Salary Rule

Review of sampled payroll data for the March and June, 2024 payroll revealed that 15 MCAs and 5 County Assembly employees had over-committed their salaries beyond two-thirds (2/3) contrary to the Employment Act, 2007 which requires that the total amount of deductions which may be deducted by an employer from the salary and wages of the employee at any one time shall not exceed two-thirds of the basic pay. The excessive deductions resulted from Management allowing the staff to incur loans and other liabilities whose repayments were deducted by check-off and which put the officers at the risk of pecuniary embarrassment.

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

553. Non-Compliance with Fiscal Responsibility Principles

Note 4 to the financial statements reflects compensation of employee's expenditure of Kshs.897,472,012. The amount represents approximately 46% of the transfers from CRF of Kshs.1,945,015,747 being 11% percentage over and above the maximum allowed ceiling of 35% of the county government revenue contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the expenditure set should not exceed thirty-five (35) percent of the county Government's revenue.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

554. Incomplete Asset Register

Annex 4 to the financial statements reflects a summary of non-current assets with a historical cost of Kshs.366,888,239. However, the assets were not tagged for identification. Further, the register was not updated with additions of loose furniture recorded at Kshs.7,712,000 and floor carpets at Kshs.1,120,000, and digital cameras/deluxe accessory kits, hard drive at Kshs.1,482,000. This was contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which prescribes that the Accounting Officer shall be responsible for

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maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

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

555. Procurement of Bulk Short Message Service

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.853,400,059 and as disclosed in Note 5 to the financial statements. The amount includes an expenditure of Kshs.1,835,700 on communication, supplies and services which further includes payment of Kshs.200,000 for supply, delivery, installation, configuration and implementation of bulk SMS system. As per the procurement plan, this procurement was reserved for the youth. Request for quotations were made from three (3) companies and the request for quotation forms required the companies to submit a copy of AGPO certificate. However, the award of the tender to a local company was not supported by AGPO certificate.

In the circumstances, the existence of an effective mechanism of internal controls to manage the procurement function could not be confirmed.

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APPENDIX

A: List of County Assemblies and Audit Opinions given on their Financial Statements

1. Certificates with Unqualified Opinion

S/N	County Code	County Assembly	Opinion
1.	2	Kwale	Unqualified
2.	15	Kitui	Unqualified
3.	23	Turkana	Unqualified
4.	24	West Pokot	Unqualified
5.	26	Trans Nzoia	Unqualified
6.	35	Kericho	Unqualified
7.	36	Bomet	Unqualified
8.	39	Bungoma	Unqualified

2. Certificates with Qualified Opinion

S/N	County Code	County Assembly	Opinion
1.	1	Mombasa	Qualified
2.	3	Kilifi	Qualified
3.	4	Tana River	Qualified
4.	5	Lamu	Qualified
5.	6	Taita/Taveta	Qualified
6.	7	Garissa	Qualified
7.	8	Wajir	Qualified
8.	9	Mandera	Qualified
9	10	Marsabit	Qualified

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S/N	County Code	County Assembly	Opinion
10.	11	Isiolo	Qualified
11.	12	Meru	Qualified
12.	13	Tharaka-Nithi	Qualified
13.	14	Embu	Qualified
14.	16	Machakos	Qualified
15.	17	Makueni	Qualified
16.	18	Nyandarua	Qualified
17.	19	Nyeri	Qualified
18.	20	Kirinyaga	Qualified
19.	21	Murang'a	Qualified
20.	22	Kiambu	Qualified
21.	25	Samburu	Qualified
22.	27	Uasin Gishu	Qualified
23.	28	Elgeyo/Marakwet	Qualified
24.	29	Nandi	Qualified
25.	30	Baringo	Qualified
26.	31	Laikipia	Qualified
27.	32	Nakuru	Qualified
28.	33	Narok	Qualified
29.	34	Kajiado	Qualified
30.	37	Kakamega	Qualified
31.	38	Vihiga	Qualified
32.	40	Busia	Qualified
33.	41	Siaya	Qualified

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S/N	County Code	County Assembly	Opinion
34.	42	Kisumu	Qualified
35.	45	Kisii	Qualified
36	46	Nyamira	Qualified
37.	46	Nairobi City	Qualified

3. Certificates with Adverse Opinion

S/N	County Code	County Assembly	Opinion
1.	43	Homa Bay	Adverse
2.	44	Migori	Adverse

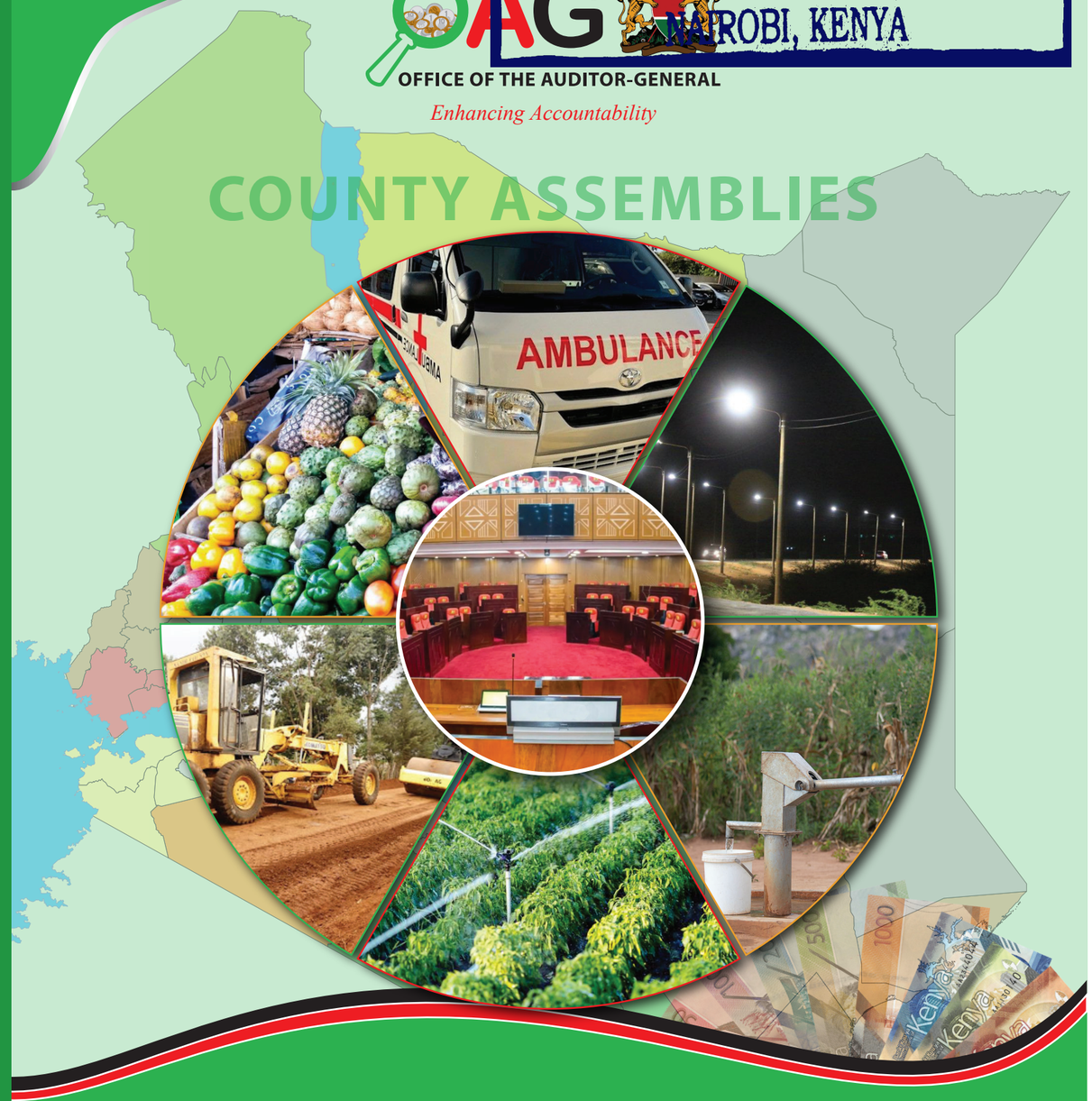
4. Certificates with a Disclaimer of Opinion

None

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COUNTY ASSEMBLIES 2023-2024

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