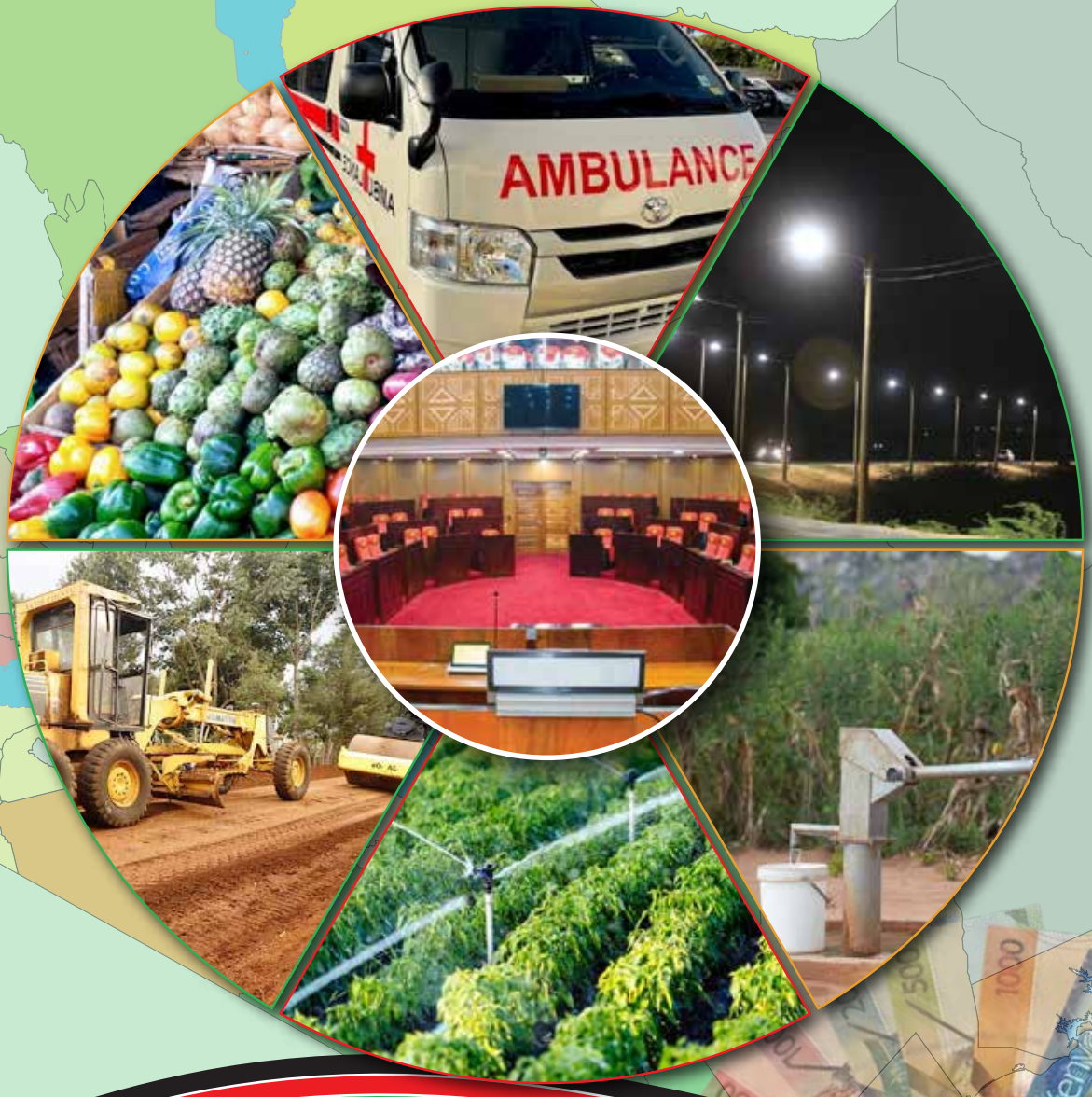
OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability

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COUNTY ASSEMBLIES



AUDITOR-GENERAL'S REPORT ON THE COUNTY GOVERNMENTS

COUNTY ASSEMBLIES 2022-2023

VOLUME 2

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REPORT

OF

THE AUDITOR-GENERAL

ON

THE COUNTY GOVERNMENTS

FOR

THE YEAR 2022/2023

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 which includes County Executives and County Assemblies for the year ended 30 June, 2023.

The Auditor-General is mandated by the Kenyan Constitution, 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 effectively. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

Article 229 (7) of the Constitution requires the Auditor-General to audit and submit reports to Parliament or the relevant County Assembly 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 of audit and reporting from the six (6) months given by the Constitution to three (3) months. This has adversely affected the timelines for reporting, leading to backlogs and affecting the efficiency and effectiveness of oversight by Parliament, the Senate and the County Assemblies.

Further, as previously reported, an effective mechanism for follow-up on the implementation of audit recommendations is lacking. As a result, most audit queries recur in subsequent audit reports due to a lack of requisite action. As outlined in Section 204(1)(g) of the Public Finance Management Act, 2012, a National Government entity that fails to address issues relating to finance raised by the Auditor-General, to the satisfaction of the Auditor-General, may be sanctioned by the Cabinet Secretary for Finance.

However, despite numerous reports indicating a lack of accountability and adequate documents to support the legality and effectiveness in the use of public resources, failure to apply the requisite sanctions and consequences has resulted in some Accounting Officers not adequately accounting for the management and use of public resources with impunity. Lack of action and 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 programmes. This in turn threatens economic growth and service delivery sustainability. 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 financial statements presented for audit, lack of requisite

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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, however, continuously improved the effectiveness and quality of the audit process to ensure that the audit results and the recommendations thereof are credible, relevant, reliable and value-adding. This is geared towards influencing an improved decision-making process and making a difference in the lives and livelihoods of the Kenyan people through 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 programme implementation requires comprehensive scrutiny and evaluation of supporting documents. Most critical is the physical confirmation of the existence and utilization of projects or programmes implemented throughout the country. Achieving this requires an independent and well-resourced audit office with guaranteed adequate funding to enable efficient, effective and timely execution of the audit cycle 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 the enhancement of resources. This will enable it to build technical capacity, expand its presence in the counties, and widen the scope and comprehensiveness of audits. In addition, it will motivate 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. This is to address the audit needs at the grassroots level. Currently, we have fifteen (15) regional offices following the establishment of two (2) additional regional offices in Kilifi and Kericho during the year under review. We have constructed our own offices in Garissa, Kakamega and Eldoret. Construction works in Embu are almost complete, and the procurement process for the Mombasa offices has commenced. Due to a lack of fuding, plans for the construction of our Headquarters in Nairobi, currently at the design stage, have been delayed. However, the Office continues to appeal to Parliament and The National Treasury to provide adequate funds to enable us to perform our functions and achieve our mandate in enhancing accountability across Government, both at the national and county levels and in all other entities funded from public funds.

Over the years, the audit scope has been expanding due to the expansion of Government programs to ensure sustainable development and delivery of continuous and quality services to the citizens. This has led to the growth in the national budget and the formation of additional entities that I am required to audit and report on. Over nine thousand (9,000) Public Secondary Schools were directed by the Principal Secretary for the State Department for Basic Education, to prepare and submit financial statements to the Auditor-General for audit from 30 June, 2021. Several schools have complied with this directive. My Office has undertaken a pilot study and sampled one hundred and sixteen (116) public secondary schools, conducted audits and issued reports for the two years (2020/2021 and 2021/2022). My office is currently evaluating the outcome of the audits and is expected to roll out the audit to all public secondary schools.

Further, I am required to separately audit and report on financial statements for all three hundred and fifty-eight (358) Level 4 hospitals and fourteen (14) Level 5 hospitals. I am also required to audit a total of two hundred and eighteen (218) Technical and Vocational Education and Training (TVET) Institutions. This number continues to increase as we are currently undertaking an evaluation exercise with the State Department for Technical, Vocational Education and Training to identify all institutions funded through the Exchequer which will include Community Vocational Training Institutions that are estimated to be over one thousand two hundred (1,200). In addition, new projects and funds have been created and all require timely oversight.

During the period under review, the Office of the Auditor-General made significant strides in enhancing audit services delivery to Kenyans. 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 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, 2023, which I have already submitted to the Senate, County Assemblies and each Accounting Officer.

I wish to sincerely 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 the lack of proper accommodation and adequate funding. Special appreciation goes to the team that tirelessly prepared this Book.

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

FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

15 March, 2024

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VOLUME 2 – COUNTY ASSEMBLIES

1.0 Introduction

1.1 Legal Mandate of the Office of the Auditor-General

The Auditor-General is mandated under Article 229, of the Constitution of Kenya, 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, Political Parties funded from public funds, other Government agencies and any other entity funded from public funds. The mandate of the Auditor-General is further expounded by the Public Audit Act, 2015.

The Constitution requires the Auditor-General to submit audit reports of 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 public resources have been applied lawfully and in an efficient way by the Public Entities.

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(1), to conduct investigations, conciliations, mediations and negotiations and to issue summons to witnesses for the purpose of 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)-Cash Basis, 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.

Further, Management is responsible for maintaining 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.

Management is also 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 County's financial reporting process, reviewing the effectiveness of how 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 audits 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 submitted to Parliament or relevant County Assembly 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 overall governance processes and systems, in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015.

I am independent in accordance with Article 249(2) of the Constitution of Kenya, 2010 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 structure of my report is in fulfilment of the reporting requirements of Article 229(6) of the Constitution of Kenya, 2010, which provides that an audit report shall confirm whether or not public money has 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 governance in National and County Governments entities.

In addition, the International Standards of Supreme Audit Institutions (ISSAIs), now require the incorporation of Key Audit Matters in the report on the financial statements, which are those matters that I determine in my professional judgment, are of most significance in the audit of the financial statements as a whole, for the year under review. 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 a true and fair view of 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 effective way.

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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 and any other enabling legislation and authorities that require such disclosure.

1.5 Audit Opinions

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

a) Unmodified/ Unqualified Opinion

The books of accounts and underlying records agree with the financial statements and no material misstatements were found. The financial statements give a true and fair view of 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 misstatement with the underlying accounting records. There are significant disagreements between the financial statements and the underlying books of accounts and/or standards. The problems are widespread, persistent and require considerable interventions by the 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 informed opinion on the financial operations.

1.6 Audit Findings

A list of the County Executives and the types of opinion given against their financial statements are contained in the ***Appendix***. The audit findings noted during the audit of the County Assemblies financial statements for the year ended 30 June, 2023 are presented in the following section.

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COUNTY ASSEMBLY OF MOMBASA – NO.1

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1. Variance in Exchequer Releases

The statement of receipts and payments reflects transfers from County Treasury balance of Kshs.808,684,687 as disclosed in Note 1 to the financial statements. However, analysis of Exchequer requests, approvals and transfers revealed an amount of Kshs.808,602,367 resulting to an unexplained variance of Kshs.82,320.

In the circumstances, the accuracy and completeness of transfers from the County Treasury amounting to Kshs.808,684,687 could not be confirmed.

2. Variance in Compensation of Employees

Note 4 to the financial statements reflects basic salaries for permanent employees of Kshs.167,710,219 while the supporting ledgers and payrolls reflect Kshs.353,800,559 resulting to unexplained variance of Kshs.186,090,340. Further, Note 4 reflects personal allowances paid as part of salary amounting to Kshs.161,623,824 while ledgers and payrolls reflect Kshs.161,563,824 resulting to the unexplained variance of Kshs.60,000.

In the circumstances, the accuracy and completeness of basic salaries of permanent employees amounting Kshs.167,710,219 and personal allowances paid as part of salary of Kshs.161,623,824 could not be confirmed.

Emphasis of Matter

3. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual amounts on comparable basis of Kshs.904,783,021 and Kshs.808,684,687 respectively, resulting to underfunding of Kshs.96,098,334 or 11% of the budget. Similarly, the County Assembly spent Kshs.795,113,039 against an approved budget of Kshs.904,783,021 resulting to under absorption of Kshs.109,669,982 or 12% of the budget.

In the circumstances, the underfunding and under absorption may have impacted negatively on the implementation of the County Assembly's programs.

My opinion is not modified in respect of this matter.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

4. Irregular Payment of Legal Fees

The statement of receipts and payments reflects use of goods and services amount of Kshs.270,578,770 as disclosed in Note 5 to the financial statements. The amount includes specialized materials and services amount of Kshs.1,629,500 out of which an amount of Kshs.300,000 was paid to a private legal consultant for services offered during the swearing in ceremony of the Members of County Assembly. However, Management did not explain why they hired the services of a private legal firm instead of using the County's internal legal counsel.

In the circumstances, value for money on the expenditure of Kshs.300,000 paid to a private legal consultant could not be confirmed.

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

Conclusion

5. 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

Basis for Qualified Opinion

6. Un-Supported Expenditure

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflect use of goods and services amount of Kshs.300,928,656 which includes expenditure of Kshs.138,069,445 on domestic travel and subsistence. Review of sampled payment vouchers revealed that payments totalling Kshs.6,804,600 on domestic travel and subsistence allowance were not supported with signed attendance schedules for the events attended.

In the circumstances, the accuracy and completeness of expenditures of Kshs.6,804,600 on domestic travel and subsistence could not be confirmed.

Emphasis the Matter

7. 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 of Kshs.1,169,141,072 and Kshs.955,008,190 respectively, resulting to under-funding of Kshs.214,132,882 or 18% of the approved budget. Similarly, the County Assembly spent Kshs.947,446,328 against an approved budget of Kshs.1,169,141,072, resulting to an under-expenditure of Kshs.221,694,744 or 19% of the approved budget. The under-funding and under-expenditure affected implementation of the planned programs negatively impacting on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

8. 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, the Management has not resolved the issues or given any explanation for non-adherence to the reporting format prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

9. Irregular Payment of Ward Officers' Salaries

The statement of receipts and payments reflects compensation of employees of Kshs.241,761,780 which as disclosed in Note 4 to the financial statements includes basic

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wages of temporary employees of Kshs.28,499,000 in respect of remuneration for ninety (90) ward staff for the Members of the County Assembly (MCAs) employed under the provisions of Commission on Revenue Allocation Circular Ref. CRA/CSO/CMG/9/Vol.V (43) of 3 August, 2020. Review of the ward staff salaries revealed that the salaries paid were either higher or lower than the salary scales set by the CRA Ward Officers' salary structure, resulting to over and under payments totalling Kshs.638,133 and Kshs.124,683 respectively. This was contrary to the CRA Circular that prescribed the salary scales.

In addition, Management did not provide for audit advertisements, applications, shortlisting and interviews reports to support the recruitment of the ninety (90) ward offices staff by the County Assembly Service Board. This was contrary to Section 12(7)(b) of the County Government Act, 2012 which provides that the County Assembly Service Board is responsible for constituting offices in the County Assembly Service, and appointing and supervising office holders.

In the circumstances, Management was in breach of the law and the regularity of engagement of the Ward officers could not be confirmed.

10. Over Commitment of Salaries

Review of the payroll records revealed that six employees had salary deductions in excess of two-thirds of their basic salary, 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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

11. Salaries Paid Outside Integrated Personnel and Payroll Database (IPPD)

Review of personnel records indicated that the Members of the County Assembly (MCAs) were sworn in on September, 2022 and thereafter defined in the IPPD system for salary processing. However, three (3) MCAs were paid salaries totalling Kshs.6,156,744 outside the IPPD system in the year under review.

In the circumstances, the effectiveness and integrity of controls in place for salaries processed outside the payroll could not be confirmed.

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COUNTY ASSEMBLY OF KILIFI – NO.3

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

12. Misclassification of Personal Allowances to Domestic Travel

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.413,254,831 which includes domestic travel and subsistence balance of Kshs.198,607,724 as disclosed in Note 3 to the financial statements. However, review of records revealed that payments totalling Kshs.3,523,000 relating to personal allowances were wrongly charged to domestic travel instead of compensation of employees.

In the circumstances, the accuracy and completeness of the domestic travel and subsistence and compensation of employee balance could not be confirmed.

Other Matter

13. 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, the Management has not resolved the issues or given any explanation for non-adherence to the reporting format prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

14. Employment of Members of Staff above the Approved Ceiling

During the year under review, the County Assembly had a total of one hundred and twenty-six (126) staff serving in various positions. This was contrary to the guidelines of the Commission on Revenue Allocation through Circular ref CRA/FA/01VOL.11(22) on County Government recurrent expenditure ceilings for financial year 2018/19 dated 28 June, 2018, which recommended the number of staff members to be one hundred (100). In addition, one hundred and fifty-nine (159) members were engaged on temporary terms and attached to the Members of County Assembly and the Speaker.

In the circumstances, Management was in breach of the Commission on Revenue Allocation guidelines.

15. Non-Compliance with One Third Basic Salary Rule

Review of payroll records revealed nine (9) members of staff had committed their salaries beyond the allowable two-thirds in the month of June, 2023 while four (4) members of

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staff earned Nil salaries in the month of August and one (1) member of staff earned Nil salary in the month of October, 2022. This was contrary to the provisions of Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages or such additional or other amount as may be prescribed 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.

16. Non-Compliance with Law on Ethnic Diversity

Review of records revealed that the County Assembly had a staff establishment of one hundred and twenty-six (126), out of which one hundred and sixteen (116) or 92% were from one dominant ethnic community. Further, out of the total number of employees, ten (10) were recruited during the year under review out of which eight (8) were from the dominant ethnic community.

This is in contravention of 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.

17. Stalled Construction of County Assembly Offices

As previously reported, a contract for the construction of County Assembly offices was awarded to a local Company on 12 February, 2016 at a contract sum of Kshs.508,549,884. However, due to poor performance of the contractor, the contract was terminated on 15 August, 2017 upon which another contractor was engaged at a contract sum of Kshs.624,206,006, out of which Kshs.408,654,300 was to undertake completion of the construction of the County Assembly offices while the balance of Kshs.215,551,706 was to be paid to the sub-contractors. However, following a circular from The National Treasury on County infrastructure expenditure that set the expenditure limit for County Assembly offices, the contract sum was set at Kshs.350,771,955 comprising the price of completion of the County Assembly offices and which was scaled down to Kshs.259,178,875. An addendum contract agreement was issued on 18 March, 2019 while the contract price for sub-contractor was scaled down to Kshs.91,593,080.

The initial contract completion date was on 15 September, 2019 but was extended to 22 May, 2020. On 10 March, 2021, the main contractor through an unreferenced letter requested the Clerk for termination of the contract. The Clerk of the County Assembly terminated the contract on 2 April, 2022. At the date of termination, the value of works done as per final valuation No. 9 amounted to Kshs.155,985,743 while physical verification of the project in September, 2023 revealed that works had stalled.

In the circumstances, the value for money of the expenditure Kshs.155,985,743 incurred on the project could not be confirmed.

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REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

18. Failure to Establish Audit Committee

Review of the internal controls, risk management and governance revealed that no audit committee had been established. Further, even though the Internal Audit Department had an audit plan in place, evidence of execution of the plan and the internal audit reports were not provided for audit review.

In the circumstances, the effectiveness of the internal audit to effectively discharge their mandate could not be confirmed.

19. Lack of Approved Staff 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 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 B.5 (2) of the County Public Service Human Resource Manual 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.

In the circumstances, Management had engaged not the optimal numbers of employees for all categories.

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COUNTY ASSEMBLY OF TANA RIVER – NO.4

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

20. Inaccuracies in the Transfers from the County Treasury/Exchequer Releases

The statement of receipts and payments reflects transfers from the County Treasury amounting to Kshs.947,412,490 and as disclosed in Note 1 to the financial statements. Review of the bank statements reflects that an amount of Kshs.997,412,490 was received out of which an amount of Kshs.702,790,308 was for recurrent vote while the balance of Kshs.294,622,182 was in respect of development vote. This resulted to a variance of Kshs.50,000,000 which has not been explained or reconciled. In addition, re-computation of the corresponding Note 1 to the financial statements reflects receipts amounting to Kshs.947,210,725 resulting to an unexplained variance of Kshs.201,765

In the circumstances, the accuracy and completeness of transfers from the County Treasury amounting to Kshs.947,412,490 could not be confirmed.

21. Unsupported Payments on Printing, Advertising and Information Supplies and Services

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amounting to Kshs.267,052,885. Included in the payments is an amount of Kshs.282,180 in respect of printing, advertising and information supplies and services which involved live coverage on media and printing at Government Printer. However, the expenditure was not supported with profoma invoice, local purchase orders/local service orders, and delivery notes.

In the circumstances, the accuracy and completeness of the payments amounting to Kshs.282,180 could not be confirmed.

Emphasis of Matter

22. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for recurrent and development combined reflects final receipts budget and actual on comparable basis amounting to Kshs.1,113,396,752 and Kshs.947,412,490, respectively resulting in an underfunding of Kshs.165,984,262 or 15% of the budget. Similarly, the County Assembly expended Kshs.944,880,399 against an approved budget of Kshs.1,113,396,752 resulting to an under expenditure of Kshs.168,516,353 or 15% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

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23. Pending Bills

Annex 1 to the financial statements reflects a balance of Kshs.2,908,026 in respect of pending accounts payable which was not paid but carried forward to the subsequent year. Failure to settle bills during the year in which they relate 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 these matters.

Other Matter

24. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the report on financial statements, report on lawfulness and effectiveness in the use of public funds and report on effectiveness of internal control, risk management and governance. However, Management had not resolved the issues or given any explanation for failure to implement recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

25. Irregularities in the Human Resource Management

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects payments in respect of compensation of employees amounting to Kshs.318,319,659. Review of payment records revealed the following anomalies;

25.1 Failure to Deduct Service Charge on Third Party Deductions

During the year under review, Management failed to deduct service charge on various third-party deductions including bank/micro-finance loans, Sacco loans, social welfare dues and insurance policy premiums resulting to loss in Appropriations-in-Aid during the year under review contrary to the Ministry of Public Service, circular Ref. No. DPM 23/5A VOLC XII/ (53) dated 2 May, 2007, which stipulated the charges to be paid by organizations which receive services from Ministries/Departments in form of payroll by-products.

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

25.2 Irregularities of Human Resource Management Practices

Review of personnel records and Integrated Personnel and Payroll Database (IPPD) revealed that the County Assembly had a gender distribution of fifty-five (55) or 73% male and twenty (20) or 27% female which contravenes the two-thirds gender rule. There was no evidence to show that persons with disabilities were represented in the work force

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contrary to Article 232(1) of the Constitution, 2010 which directs that the values and principles of public service include affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of men and women; the members of all ethnic groups and persons with disabilities.

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

26. Undisclosed Pending Staff Payables

The Employment and Labour Relations Court at Malindi ruled in favour of an employee who had sued the County Assembly, the Clerk and three other persons. The Clerk was ordered to pay the petitioner his salary and general damages amounting to Kshs.2,500,000 as compensation for violation of his rights which was awarded by the court. However, the Management has not disclosed in the financial statements the amount as pending staff payables.

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

27. Outstanding Account Receivables Balance

The statement of financial assets and liabilities and as disclosed in Note 14 to the financial statements reflects a balance of Kshs.2,386,800 in respect of accounts receivables – outstanding imprests. Although Management explained that the imprests had since been surrendered, evidence of the surrenders were not provided for audit review contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

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

28. Failure to Adhere to Budget Timelines

Review of the budget documents revealed that the budget estimates for the year ending 30 June, 2023 were submitted to the County Assembly on 5 June, 2023. Further, the budget was passed by the County Assembly on 17 October, 2022 contrary to Section 129 (2) of the Public Finance Management Act, 2012 which states that following approval by the County Executive Committee, the County Executive Committee Member for Finance shall submit to the County Assembly the budget estimates, supporting documents, and any other bills required to implement the budget, except the Finance Bill, by the 30 April in that year and Section 131 of the Act which states that the County Assembly shall consider the County Government budget estimates with a view to approving them, with or without amendments, in time for the relevant appropriation law and any other laws required to implement the budget to be passed by the 30 June in each year.

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

29. Non-Compliance with Payment of Statutory Dues

During the year under review an amount of Kshs.1,000,000 was paid to National Social Security Fund (NSSF) as part settlement of arrears of members contribution which were

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deducted but not remitted following an NSSF demand notice dated 28 January, 2021. The demand notice was for an amount of Kshs.11,620,450 comprising of Kshs.5,296,000 in arrears (late payments) and accrued penalties amounting to Kshs.6,310,240, billed on a rate of 5% per month since September 2015. Management requested for a waiver from the National Social Security Fund on 9 June, 2021 and committed to pay Kshs.500,000 every month from 25 June, 2021 to 25 May, 2023 and after which a final payment of Kshs.120,450 will be made. However, only an amount of Kshs.1,000,000 was paid in two equal disbursements in February and April, 2023 thus exposing the County Assembly to more fines and penalties contrary to Section 53(A) of the Retirement Benefits Act, 2012.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

30. Lack of Organizational Strategic, Disaster Recovery and IT Strategic Plans

During the year under review, Management had not developed an organizational strategic plan, a disaster recovery plan and IT strategic plan contrary to the provisions of Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015 which require the 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, it may not be possible for Management to focus on their goals and objectives.

31. Ineffective Human Resources Practices

Review of human resources records, revealed that the approved staff establishment was ninety-two (92) employees. However, review of records revealed that as at the time of audit, the County Assembly had seventy-five (75) employees which represents overall understaffing of seventeen (17) employees. Ten (10) departments were understaffed by twenty-two (22) employees while four (4) departments were overstaffed by five employees.

Further, Management had not undertaken performance appraisal on their staff while review of the June, 2023 payroll indicated that seven (7) of the seventy-three (73) employees of the organization only had 7 years of service before retirement and no proper succession management had been put in place.

In addition, Management had not developed a skills inventory for all officers in their respective departments.

In the circumstances, it may not be possible for Management to attain their goals and objectives.

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32. Processing of Salaries and Allowances Outside the Integrated Personnel and Payroll Database (IPPD)

The statements of receipts and payments reflects compensation of employees amount of Kshs.318,319,659 as disclosed in Note 4 to the financial statements. However, payments in respect of basic salaries to permanent employees amounting to Kshs.28,954,480 were paid outside the Integrated Personnel and Payroll Database (IPPD). No explanations were provided for the processing of the wages outside the IPPD system.

In the circumstances, existence of an effective control in management of compensation of employees could not be confirmed.

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COUNTY ASSEMBLY OF LAMU – NO.5

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

33. Inaccuracies of Cash and Cash Equivalents Balance

The statement of financial assets and liabilities reflects a balance of Kshs.41,209,560 in respect to cash and cash equivalents and as disclosed in Note 6A to the financial statements. However, the balance includes an amount of Kshs.40,399,995 in respect of car loan and mortgage Fund. Further, review of the Integrated Financial Management Information System (IFMIS) bank reconciliation statements revealed that the County Assembly's recurrent account was overdrawn by Kshs.85,945,356 as at 30 June, 2023 while the cash book reflected a balance of Kshs.806,314. Management attributed the discrepancy between the two set of records to prior year adjustments in IFMIS which were corrected due to lack of adequate IFMIS training and limited user rights.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.41,209,560 could not be confirmed.

34. Unsupported Payments to Ward Offices and Casual Workers

The statement of receipts and payments and Note 2 to the financial statements reflects payments totalling Kshs.164,400,820 in respect of compensation of employees which includes payments amounting to Kshs.1,830,000 in respect of casual workers in ten (10) Ward offices for the month of November, 2022. However, the payment was not supported by a list of beneficiaries and a signed muster roll. Further, an amount of Kshs.345,000 was transferred to each of the ten (10) Wards which translates to a total of Kshs.3,450,000. However, the expenditure returns supporting these transfers were not provided for audit review.

In the circumstances, the accuracy, completeness and propriety of payments amounting to Kshs.5,280,000 could not be confirmed.

Emphasis of Matter

35. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis totalling Kshs.564,250,000 and Kshs.362,476,400 respectively resulting to an underfunding of Kshs.201,773,600 or 36% of the budget. Similarly, the statement reflects expenditure budget and actual on comparable basis of Kshs.564,250,000 and Kshs.361,376,637 respectively resulting to budget underutilization of Kshs.202,873,363 or 36%. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

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36. Late Exchequer Releases

The statement of receipts and payments and Note 1 to the financial statements indicate that the County Assembly received Exchequer receipts totalling Kshs.362,476,400 from the County Revenue Fund. However, included in this amount are late disbursements totalling Kshs.61,483,700 received in the month of June, 2023. Failure by the County Treasury to release money on time may have negatively impacted on service delivery by the County Assembly.

My opinion is not modified in respect of these matters.

Other Matter

37. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the reporting template prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

38. Irregular Payment of Car Purchase Allowances

During the year under review, Management paid a total of Kshs.22,120,000 in respect of car purchase allowances to the Members of County Assembly (MCAs) of Lamu. This was contrary to part 2(m) of Kenya Gazette Notice Number 8795 dated 27 July, 2022 on remuneration and benefits for state officers in the County Assembly which states that transport facilitation benefit in form of a car grant has been abolished and ceased to be paid with effect from 9 August, 2022.

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

39. Long Outstanding Imprest

The statement of financial assets and liabilities and Note 7 to the financial statements reflect a balance of Kshs.294,000 in respect of imprests and advances. However, review of records revealed that the imprests had been outstanding for five (5) months 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.

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

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40. Failure to Deduct and Effect the New NSSF Rates

Review of the Integrated Payroll and Personnel Database (IPPD) revealed that Management did not make deductions to the National Social Security Fund (NSSF) from one hundred and thirteen (113) members of staff. Further, the new NSSF rates had not been affected as guided by a Gazette Notice dated 9 February, 2023.

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

41. Irregular Payment to Society of Clerks at the Table

The statement of receipts and payments reflects payments totalling Kshs.151,137,818 in respect to use of goods and services which, as disclosed in Note 3 to the financial statements includes other operating expenses of Kshs.3,242,805. This amount in turn includes Kshs.750,000 paid to Society of Clerks at the Table during the year under review. However, no legal framework supporting this expenditure was provided for audit review.

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

42. Unauthorized Reallocation of Expenditure

The statement of receipts and payments reflects payments totalling Kshs.361,376,637. However, payments in respect of eleven (11) budget line items totalling Kshs.139,301,500 had an allocated budget of Kshs.85,162,000 resulting to unauthorized reallocation of Kshs.54,139,500. This was contrary to Section 147(1)(d) of Public Finance Management Act, 2012 which states that subject to the Constitution, the Accounting Officer of a County Assembly shall monitor, evaluate and oversee the management of their public finances, including ensuring proper management and control of, and accounting for, their finances in order to promote the efficient and effective use of budgetary resources.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

43. Lack of Risk Management Policy

During the year under review, Management had not developed a risk management policy. Further, Management did not carry out risk assessment during the year under review.

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

44. Delayed Implementation of Projects

During the year under review, the County Assembly of Lamu had budgeted to implement four (4) projects at a total cost of Kshs.94,800,000. The County Assembly made payments

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totalling Kshs.18,837,999 towards the implementation of the projects. However, none of the project was fully implemented.

In the circumstance, value for money could not be ascertained from the expenditure of Kshs.18,837,999.

45. Lack of Internal Audit Function and an Audit Committee of the Board

The County Assembly of Lamu had not established an internal audit function and an Audit Committee of the Board. This was contrary to Section 155 of the Public Finance Management Act, 2012 which provides for the establishment of the internal audit function and an Audit Committee of the Board. 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 effectiveness of internal control systems established by the County Assembly could not be confirmed.

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COUNTY ASSEMBLY OF TAITA/TAVETA – NO.6

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

46. Unsupported Expenditures - Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services amount of Kshs.325,049,151. However, the following unsatisfactory matters were noted: -

46.1.1 Unsupported Travel and Subsistence Expenditure

The amount includes expenditures of Kshs.144,230,513 and Kshs.58,184,103 on domestic and foreign travel and subsistence respectively. Review of expenditure documents revealed expenditure on domestic travel and subsistence and foreign travel and subsistence of Kshs.12,915,200 and Kshs.17,515,726, respectively all totalling Kshs.30,430,926 were not supported with evidence of; ratification of the Board's transport allowances by Salaries Remuneration Commission (SRC), competitive selection of the training facilities and user departments' requests.

46.1.2 Routine Maintenance Expenses on Motor Vehicles

Further, included in the amount for use of goods and services is an amount of Kshs.5,154,331 spent on routine maintenance of vehicles and other transport equipment. Review of records provided revealed that the County Assembly made payments for motor vehicle repairs, service and maintenance expenses amounting to Kshs.7,692,379, which was more than the amount of Kshs.5,154,331 reflected in the financial statements by an unexplained variance of Kshs.2,538,048. Further, included in the expenditure of Kshs.7,692,379 is an amount of Kshs.1,914,468 that was not supported with inspection reports and evidence of competitive sourcing of the service providers.

46.1.3 Insurance Costs

The amount for use of goods and services also includes an amount of Kshs.34,473,901 in respect of insurance costs. Review of records revealed that the County Assembly made payments for motor vehicles insurance amounting to Kshs.1,000,000 as settlement of a pending bill on insurance cover for the financial year 2018/2019. However, Management did not provide the policy document or contract detailing the motor vehicles insured, their valuations and cover class taken during the period.

46.2 Legal Expenses

The statement of receipts and payments and as disclosed in Note 12 to the financial statements reflect an expenditure on other payments amounting to Kshs.76,984,855 which includes an amount of Kshs.7,213,501 incurred on settling pending legal expenses. Review of records provided revealed that the County Assembly paid an amount of Kshs.4,000,000 to three (3) private legal service providers. However, Management did

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not provide evidence of how the service providers were identified, selected and fees determined for audit verification.

In the circumstances, the accuracy and completeness of expenditure amounting to Kshs.42,479,725 could not be confirmed.

47. Irregular Foreign Travel and Subsistence Expenses

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services balance of Kshs.325,049,151 which includes an amount of Kshs.58,184,103 incurred on foreign travel and subsistence. The latter amount further includes an expenditure of Kshs.8,037,599 incurred by the Members of Taita/Taveta County Assembly on a pre-conference, leadership training and study tour in Zanzibar for a period of six (6) days.

Review of records revealed that the County Assembly facilitated twenty-five (25) MCA's and five (5) members of staff for the travel and paid a total amount of Kshs.8,037,599 as per diem. Further, an additional expenditure amounting to Kshs.9,116,800 was incurred in respect of registration of members, administration, conference charges, coordination and training costs.

Examination of records provided for audit in respect of the trip revealed following anomalies:

i) Included in the amount of Kshs.8,037,599 travel and subsistence expense is an expenditure of Kshs.238,000 paid as transport costs. However, the participants had been facilitated at the rate of Kshs.85,600 per person. Management did not explain the purpose of Kshs.238,000 transports costs incurred.

ii) The County Assembly incurred additional conference, catering and training costs of Kshs.9,116,800. However, audit review of the procurement process indicated that the County Assembly used the direct procurement method to source for the services contrary to Section 158 of the Public Procurement and Asset Disposal Regulations, 2020.

iii) Out of the twenty-five (25) MCA's facilitated for the travel, four (4) Members did not travel to Zanzibar despite having been paid the allowances amounting to Kshs.1,141,809. Management did not provide evidence of the subsequent refund of the amounts paid to the participants who did not travel after a request for the refund was done.

iv) Review of the travel documents of the participants indicated that they were eligible for five (5) days per diems but had been paid for six (6) days per diem resulting in one extra (1) day per diem overpayment to each of the participants. Management did not provide evidence that the overpayment had been recovered or refunded by the beneficiaries.

v) Available information indicated that the Ethics and Anti-Corruption Commission had carried out investigations on the matter and from their report, participants were provided with full accommodation during the trip and had also been paid full per

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diem allowance leading to double compensation. The Commission through demand letters required the delegates to refund the extra payments made to the Commission's bank account. However, Management did not provide any confirmation that the refund was done as per the Commission's demand letters.

In the circumstances, the regularity of the foreign travel and subsistence expenses of Kshs.17,154,399 could not be confirmed.

Emphasis of Matter

48. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual amounts on comparable basis of Kshs.1,033,022,686 and Kshs.902,223,168 respectively, resulting in under-funding of Kshs.130,799,518 or 13% of the budget. Similarly, the County Assembly expended Kshs.896,622,657 against an approved budget of Kshs.1,033,022,686, resulting in an under-expenditure of Kshs.136,400,029 or 13% of the budget. The under-funding and under-expenditure 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

49. Unresolved Prior Year Issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not provided reasons for the delay in resolving the audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

50. 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 thirty-four (134) staff out of which one hundred and six (106) or 79% are from the dominant local 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.

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

Basis for Conclusion

51. Irregular Re-designation of Staff

Review of records in respect of the County Assembly Services Board (CASB) meeting held on 21 January, 2023 revealed that the Board resolved to re-designate some County Assembly employees from the current designations to new designations.

However, analysis of the re-designation of the employees revealed the following anomalies:

i. Management did not provide evidence that the Board acted following recommendation by the Management Committee and the Staff Advisory Committee since the committees were not operational during the time of effecting the re-designation.

ii. Management did not provide evidence that the re-designations were based on suitability interviews done and report on suitability of employees re-designated to and from various cadres requiring professional competence e.g. procurement, ICT and research assistants, were not provided.

iii. The Board resolved and re-designated 16 employees, whereby five (5) staff in job groups P, L, Q and N were re-designated into positions higher than two (2) entry level cadres of the positions they were re-designated to. This was contrary to section C.2.3(a)(2) of the Taita/Taveta County Assembly Human Recourses Policies and Procedures Manual, 2019.

iv. Two employees in job groups K and N lodged complaints on being re-designated. Management did not provide evidence that the employees consented to the re-designation as required by Section C.2.3(c) of the Taita Taveta County Assembly Human Resources Policies and Procedures Manual, 2019.

In the circumstances, the effectiveness of internal controls relating to human resources management 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

52. Unsupported Expenditure

The statement of receipts and payments reflects use of goods and services expenses amounting to Kshs.267,466,506 as disclosed in Note 3 to the financial statements. However, the following unsatisfactory matters were noted: -

52.1 Domestic Travel and Subsistence Expenses

The balance includes domestic travel and subsistence allowances expenditure amounting to Kshs.111,448,481. Review of records provided revealed that an amount of Kshs.5,834,300 was paid to officers who attended workshops, training and other official duties outside Garissa County. However, payments were not supported with invitation letters, pre-travel approval by the management, training programs for the training attended and workshop attendance registers. In some instances, the mode of transport used was not indicated since the payments were not supported by bus tickets, work tickets or air tickets.

52.2 Training Expenses

Further, the payment includes training expenses amounting to Kshs.47,388,116. Review of records revealed training expenses totalling Kshs.500,000 which was not supported by training attendance registers, payment schedules signed by recipients of training allowances, invitation letters or nomination letters to attend the training.

52.3 Payment of Security Allowance

In addition, the payments includes other operating expenses amounting to Kshs.38,696,849. The other operating expenses includes security allowances in respect of National Police Security Services totalling Kshs.5,888,500 expenses. Review of records provided revealed that security allowances totalling Kshs.1,410,500 were not supported with requisition letters and need assessment reports. Further, the criteria and scope of security engagement, rates of remuneration and mode of payment for the security services provided as well as approval from the County Assembly Service Board to engage National Police Service security services was not provided for audit.

In the circumstances, the accuracy, completeness and regularity of payments amounting to Kshs.7,744,800 could not be confirmed.

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Emphasis of Matter

53. Pending Bills

Other Disclosures Note 1 to the financial statements reflects pending accounts payables amounting to Kshs.52,926,876 as further disclosed in Annex 1 to the financial statements. Management has not explained why the bills were not settled during the year when they occurred. Failure to settle bills during the year to which they relate to distort 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 to this matter.

Other Matter

54. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

55. Irregular Payment of Subscriptions

The statement of receipts and payments reflects use of goods and services amounting to Kshs.267,466,506. The amount includes other operating expenses totalling Kshs.38,696,849 as disclosed in Note 3 to the financial statements. The other operating expenses includes subscription fees amounting to Kshs.750,000 paid to the Society of Clerks at the Table (SOCATT). This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which requires operational expenses of the institution established under the Act to be incurred by them.

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

56. Compensation of Employees

56.1 Non-Remittance of Statutory Deductions

The statement of receipts and payments reflects compensation of employees amounting to Kshs.550,785,416 as disclosed in Note 2 to the financial statements. The amount includes pension and other social security contributions totalling Kshs.39,201,576. The pension and other social security contributions include remittance totalling

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Kshs.31,697,893 for the financial year 2021/2022. Review of records provided revealed that salary deductions amounting to Kshs.34,813,941 were made in respect of employees' contributions to pension scheme (LAPTRUST). However, only Kshs.7,503,683 was remitted leaving a balance of Kshs.27,310,258 not remitted.

Further, the County Assembly failed to implement the New National Social Security Fund (NSSF) Act No.45 of 2013 that took effect on 24 February, 2023 which provides that 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.

56.2 Over Employment of Staff in the County Wards' Offices

The compensation for employees' expenditure amounting to Kshs.550,785,416 includes basic wages of temporary employees' expenses totalling Kshs.47,377,467. Review of records revealed that the County Assembly employed a total of two hundred and seventeen (217) partisan staff. This was contrary to the Commission of Revenue Allocation (CRA) Circular No. CRA/CSO/CMG/9/VOL.V(43) dated 3 August, 2020 which allows a maximum of one hundred and fifty (150) partisan staff resulting to over employment of sixty-seven (67) non-partisan staff.

56.3 Non-Compliance with Staffing Level Ceiling

Included in the compensation of employees' expenditure of Kshs.550,785,416 is basic salaries of permanent employee's expenses amounting to Kshs.47,377,467. Review of personal records revealed that the County Assembly had one hundred and eleven (111) employees. This was contrary to Commission on Revenue Allocation Circular No. CRA/FA/01 VOL 11 (22) dated 28 June, 2018 which limited number of employees to one hundred (100) resulting in unauthorized employment of eleven (11) members of staff.

56.4 Non-Compliance with County Assembly's Wage Bill Above 35% Threshold

The statement of receipts and payments reflects compensation of employees amounting to Kshs.550,785,416 which is approximately 60.1% of the total revenue totalling Kshs.903,302,421. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the staff expenditure on wages and benefits should not exceed thirty-five percent (35%) of the County Government's total revenue.

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

57. Unsupported Payments on Printing, Advertising & Information Supplies and Services

The statement of receipts and payments reflects use of goods and services balance of Kshs.267,466,506 which, as disclosed in Note 3 to the financial statements includes printing, advertising, information supplies and services expenditure amounting to Kshs.6,166,041. Review of records revealed that printing services were procured for

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Kshs.246,400 using low value procurement. However, the expenditure was not supported by Electronic Tax Register (ETR) receipts signed by the officer undertaking the cash purchases. Further, printing service procured of Kshs.165,000 exceeded the maximum allowable threshold of Kshs.50,000.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

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COUNTY ASSEMBLY OF WAJIR – NO.8

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

59. Overpayment of Mileage Allowance

The statement of receipts and payments reflects use of goods and services amount of Kshs.300,499,158. Review of sample payments amounting to Kshs.70,036,181 in respect of mileage claims by the Members of County Assembly (MCAs), and based on actual distances from Wajir town to the respective wards as provided by the Ministry of Transport, revealed that the MCAs were entitled to reimbursement amount of Kshs.4,636,424. However, the actual amount paid for mileage claims was Kshs.11,119,744, resulting into an over-payment of Kshs.6,483,320.

In the circumstances, the propriety and accuracy of the payments of Kshs.6,483,320 could not be confirmed.

60. Failure to Establish Imprest Facility

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects use of goods and services amount of Kshs.300,499,158 which includes amount of Kshs.6,961,400 on hospitality, supplies and services. Examination of payment vouchers and other supporting documents revealed that out of the Kshs.6,961,400 an amount of Kshs.3,052,000 was in respect of cash purchases for office supplies by officers who later sought reimbursements of the amount spent. The officers financed the operations of the County Assembly using their own resources without an approved established imprest facility intended to be in operation as required by Regulations 92(1) and 93(11) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the propriety and accuracy of the expenditure amounting to Kshs.3,052,000 could not be confirmed.

Other Matter

61. Prior Year's Audit Issues

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

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

62. Compensation of Employees

62.1 Non-Compliance with Limit on Compensation of Employees

During the year under review, a total of Kshs.514,297,122 was paid in respect of compensation of employees. This represents 61% of the total revenue received of Kshs.846,725,953, contrary to Regulation 25(1)(a)(b) of the Pubic Finance Management (County Governments) Regulations, 2015 which requires the County Executive Committee Member with the approval of the County Assembly set a limit on the County Government's expenditure on wages and benefits for its officers and the limit set shall not exceed thirty-five percent (35%) of the County Government's total revenue.

62.2 Payment of Salary Using Manual Payroll

During the year under review, a total of fifty-five (55) employees were paid gross amount of Kshs.47,345,736 through a manual excel spreadsheet-based payroll system. Among these employees, forty-nine (49) were migrated to an Integrated Personnel Payroll Database (IPPD) between the months of January and May, 2023. However, nine (9) of them, with a total gross pay of Kshs.1,134,726, continued to be processed through the manual payroll system contrary to Regulation 19(1)(d) of the Public Finance Management (County Governments) Regulations, 2015 that requires integrity of the entity's internal control and management information systems, and Section 1.5.1 of The National Treasury financial accounting recording and reporting manual that directs salaries, allowances and/or arrears of County Government entity staff are presented on the Integrated Personnel Payroll Database.

62.3 Non-Compliance with Staffing Level Ceiling

Review of payroll records for the year ended 30 June, 2023, revealed that the County Assembly employed a total of one hundred and seventy-seven (177) employees. This was contrary to the Commission on Revenue Allocation (CRA) recommendation Circular No. CRA/FA/01 VOL 11 (22) dated 28 June, 2018 which specified a maximum 4 of one hundred (100) on the number of employees for County Assemblies categorized under group 2, to which the County Assembly of Wajir belongs. The County Assembly surpassed the allowable number of employees by seventy-seven (77).

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

62.4 Staff Medical Insurance Cover

During the year under review, examination of records revealed that the County Assembly of Wajir paid Kshs.37,376,521 to an Insurance Company as premium for the period 10 January, 2023 – 9 January, 2024 in respect of staff medical insurance cover.

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However, the County Assembly did not pay premiums in advance contrary to clause 6.3 of the terms and conditions of payment of the contract which requires premium shall be made in one lump sum on contract signing and Section 156(1) of the Insurance Act revised February, 2020 which requires that no insurer shall assume a risk in Kenya in respect of insurance business unless and until the premium payable thereon is received by the insurer. Further, the accounting officer did not provide for audit the quarterly report of the varied procurement contract submitted to the Public Procurement Regulatory Authority as required by Section 139 (5) of the Public Procurement and Asset Disposal Act, 2015.

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

63. Use of Goods and Services

63.1 Failure to Tax Motor Vehicle Reimbursement

During the year under review, Management made payments totalling Kshs.99,540,000 in respect of motor vehicle reimbursement to Members of the County Assembly. However, review of records revealed that income tax dues amounting to Kshs.29,862,000 was not deducted contrary to Section 3(1)(2) of the Income Tax Act which requires income tax be charged upon all income of a person in respect of gains or profits from employment or services rendered.

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

63.2 Irregular Payment to the County Assembly Forum and Clerks Society

The statements of receipts and payments reflects balance of Kshs.300,499,152 under use of goods and services which includes and amount of Kshs.5,450,000 being subscriptions to County Assemblies Forum and Society of Clerks. However, the two (2) entities are not established in law and the payments may have been done irregularly.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

64. Summary of Fixed Assets

Annex 4 to the financial statements on summary of fixed assets reflects Kshs.97,271,921 in respect of assets owned by the County Assembly as at 30 June, 2023. However, motor vehicle logbooks and land title document were not provided for audit review. Further, physical inspection carried out on the assets revealed that the County Assembly has not tagged/branded its assets as required under Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015 that requires Accounting Officer to ensure proper control systems exist for assets to prevent theft, security threats, losses, wastage and misuse and also ensure movement and conditions of assets can be tracked. In addition, the land and buildings owned by the County Assembly were not recorded in the fixed asset register.

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

65. Internal Controls and Governance

65.1 Weakness in Internal Control – Lack of Information Technology Strategy

During the year under review, Management did not establish Information Technology (IT) strategy and IT steering Committee, IT policy, disaster management and recovery policies, business continuity plan and IT continuity plan and risk management policy to ensure smooth running of its operations.

In the circumstances, lack of IT Steering Committee, IT Policy, Disaster Management and recovery policies exposed the County Assembly to loss of vital information which could affect the smooth running of the County Assembly's operations.

65.2 Failure to Establish Audit Committee

The County Assembly has not established an Audit Committee as required under Section 155(5) of the Public Finance Management Act, 2012 to support the accounting officers with regard to their responsibilities for issues of risk control, governance and associated assurance.

In the circumstances, Management lacked guidance in governance and oversight in the management of the County Assembly operations.

65.3 Non-Functional Internal Audit Function

Review of the operations of the Internal Audit Department revealed that the County Assembly had an internal audit unit in place. However, during the year under review, the Department did not prepare any report and Annual Plan, contrary to provisions of 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 unit facilitates the entity to accomplish its internal audit responsibilities.

In the circumstances, the effectiveness of the internal audit function to discharge their mandate could not be confirmed.

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COUNTY ASSEMBLY OF MANDERA – NO.9

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

66. Unsupported Domestic Travel and Subsistence Allowances

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services balance of Kshs.279,413,929 which includes domestic travel and subsistence allowances amount of Kshs.70,071,133. However, payments amounting to Kshs.2,842,000 were not supported by invitation letters, nomination letters to the participating staff, copies of certificates of participation and signed expenditure schedules with details of job groups based on the applicable rates.

In the circumstances, the accuracy and completeness of the domestic travel and subsistence allowances amounting to Kshs.2,842,000 could not be confirmed.

Emphasis of Matter

67. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total receipts budget and actual on comparable basis of Kshs.1,162,343,708 and Kshs.927,322,403 respectively, resulting in an under-funding of Kshs.235,021,305 or 20% of the budget. Similarly, the statement reflects final budgeted payments and actual on comparable basis of Kshs.1,162,343,708 and Kshs.927,320,029 resulting in under-absorption of Kshs.235,023,679 or 20 % of the budget. The under-funding and under-absorption affected the planned activities and may have impacted negatively on service delivery to the public.

Further, the County Assembly received late disbursements totalling Kshs.252,000,001 in the month of June, 2023 or 27% of total receipts thus negatively affecting implementation of budgeted programs and activities to the detriment of the public citizen.

My opinion is not modified in respect of this matter.

Other Matter

68. 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 part of the contents provided for in the reporting format prescribed by the Public Sector Accounting Standards Board.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

69. Irregular Payment of Subscriptions

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.279,413,929 which, as disclosed in Note 3 to the financial statements, includes other operating expenses amount of Kshs.41,137,171 out of which, amount of Kshs.4,450,000 and Kshs.750,000 were paid to the County Assembly Forum (CAF) and Society of Clerks at The Table in Kenya (SOCATT(K)) respectively as subscription fees. However, the payments lacked legal backing or supporting policy guidelines.

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

70. Non-Compliance with Ward Partisan Staffing Levels

Review of the records revealed that the County Assembly employed a total of two hundred (200) partisan staff for the wards against the set limit of one hundred and forty-four (144) as per circular number CRA/CSO/CMG//9/VOLV/59 dated 21 October, 2020 on Advisory of Ward Offices Operation Costs from the Commission on Revenue Allocation.

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

71. Unutilized Speaker's Residence

During the year under review an amount of Kshs.2,028,303 was paid to the contractor as final payment on the construction of the Speaker's residence. The proposed construction of the Speaker's residence for Mandera County Assembly was constructed at a total cost of Kshs.55,811,842 and a completion certificate was issued on 26 August, 2021 in respect of the project. Physical inspection conducted in the month of November, 2023 revealed that the project was complete but not in use.

In the circumstances, the value for money on the expenditure of Kshs.55,811,842 incurred on the construction of the Speaker's residence could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

72. Lack of Disaster Recovery Plan

During the year under review, Management did not carry out a risk assessment and did not develop risk management strategies, systems of risk management and internal controls that build robust business operations. Further, the County Assembly did not have an appropriate Disaster Recovery Plan, DRP.

In the circumstances, the existence of an effective mechanism to safeguard against and disruption of services could not be confirmed.

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COUNTY ASSEMBLY OF MARSABIT – NO.10

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

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

Emphasis of Matter

74. Budgetary Control and Performance

The statement of comparison of budget and actual amounts recurrent and development reflects final receipts budget of Kshs.1,229,994,164 and actual receipt of Kshs.956,446,603 resulting to underfunding of Kshs.273,547,561 or 22 % of the budget. Similarly, the statement reflects total actual expenditure of Kshs.954,192,752 against an approved budget of Kshs.1,229,994,164 resulting to an under-expenditure of Kshs.275,801,412 or 22% of the budget.

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

Other Matter

75. 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 has not resolved the issues or given any explanation for failure to adhere to the provisions of the standards prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

76. Compensation of Employees

76.1 Irregular Payment of Special House Allowance

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees amount of Kshs.217,962,746 which includes a balance of Kshs.503,100 paid in respect to special house allowance to nine (9) employees. The payments were, however, contrary to the terms and conditions of

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service as determined by SRC through Circular Ref. No SRC/ADM/1/13 Vol. III (126) of 10 December, 2014 that does not permit the payment of the special house allowance.

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

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

During the year ended 30 June, 2023, fourteen (14) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. Management has not given an explanation for the failure to comply with the policy.

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

76.3 Employees on Probation for More than Six Months

On 20 June, 2022 the County Assembly recruited twenty (20) members of staff who have been on probation terms more than six months' contrary to Section 42(2) of the Employment Act, 2007 which provides that a probationary period shall not be more than six months but it may be extended for a further period of not more than six months with the agreement of the employee.

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

77. Irregular Expenditure to Society of Clerks at the Table – SOCCAT

The statement of receipts and payments reflects other grants and transfers balance of Kshs.5,500,000 which, as disclosed in Note 8 to the financial statements includes an amount of Kshs.1,500,000 paid to the Society of Clerks at The Table (SOCATT). However, a review of the SOCATT revealed that this body is a private organization that does not draw its mandate from the Constitution of Kenya or an Act of Parliament.

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

78. Delay in Project Completion - Construction of Chambers

The statement of receipts and payments and as disclosed in Note 10 to the financial statements reflects Kshs.110,588,124 in respect of acquisition of assets which includes Kshs.87,221,446 for construction of buildings. The amount includes a payment of Kshs.13,765,155 paid to a construction company for the construction of chambers for the County Assembly of Marsabit. Review of procurement 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, verification of the works in October, 2023 revealed that the works were still ongoing, four (4) years past the completion date.

However, the approval of the extension of the project duration beyond 28 August, 2019 were not provided for audit.

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Further, the County Assembly did not provide evidence that the Project Management and other stakeholders including 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. This was 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, it was not possible to confirm whether the County Assembly obtained value for money from the expenditure of Kshs.13,765,155 incurred on the project.

79. Non-Establishment of a 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, the County Assembly was in breach of law.

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

Basis for Conclusion

80. Lack of an Audit Committee

During the year under review, the County Assembly did not put in place an audit committee which would be responsible for preparation and presentation of an annual report and to conduct an annual self-assessment to gauge its performance and achievements against its mandate, roles, duties and responsibilities contrary to Paragraph 7.2(a-c) of the Gazette Notice No.2690 on Audit Committee Guidelines for County Governments which requires the Audit Committee to produce annual, special and investigative reports and assess the performance and achievements of the County Assembly against its mandate, roles, duties and responsibilities that should be captured in the calendar of activities on an annual basis.

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

81. Understaffing of Internal Audit Department

The internal audit section had one member of staff who was not able to carry out all the internal audit functions. This was contrary to Section 155(1) to (5) of the Public Finance Management Act, 2012 which provides that every County Government entity shall ensure

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that it complies with this Act and has appropriate arrangements in place for conducting internal audit according to the guidelines of the accounting standards board.

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

82. Staff Payment Outside Integrated Payroll and Personnel Database (IPPD)

During the year under review, the County Assembly processed salaries of fourteen (14) staff members outside the IPPD. It was not explained why Management paid these employees outside the IPPD.

In the circumstances, the payment of the salaries and wages outside the Integrated Payroll and Personnel Database (IPPD) system indicates ineffective internal controls on payroll management.

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COUNTY ASSEMBLY OF ISIOLO – NO.11

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

83. Doubtful Payment

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.50,745,500 in respect of other payments. Included in this balance is an amount of Kshs.1,700,000 paid to two contractors for construction of ward offices in the year 2014. However, the payment was not supported with a certificate of work done. Further, this had not been reported as a pending bill in the previous financial years and no explanation was provided why the bill has been outstanding for nine years.

In the circumstances, the accuracy, completeness and regularity of the payment of Kshs.1,700,000 could not be confirmed.

84. Unsupported Training Expenses

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflect an amount of Kshs.179,655,649 in respect to use of goods and services which includes a balance of Kshs.7,111,700 on training expenses out of which an amount of Kshs.2,164,500 was paid to a consultancy firm for provision of training and capacity development for MCAs and staff. However, no documentary evidence in terms of training needs assessment to identify the skills gaps to be addressed, trainees' attendance lists, training programme and certificates of completion were provided for audit.

Further, supporting documents including payment vouchers to account for training expenditure amounting to Kshs.991,360 were not provided for audit.

In the circumstances, the accuracy, completeness and accountability of Kshs.3,155,860 paid to a consultancy firm could not be ascertained.

Other Matter

85. Unresolved Prior Year Matters

In the previous audit report, 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, although Management has indicated that some of the issues have been resolved, the matters remained unresolved as the Senate and County Assembly have not deliberated on the same.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

86. Non-Compliance with Fiscal Responsibility on Wage Bill

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects Kshs.231,870,396 in respect to compensation of employees. This represents 39% of the total receipts of Kshs.593,536,657, which is contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Government's expenditure on wages and benefits to a maximum of 35% of the total revenue for the year.

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

87. Staff Members above Approved Establishment

During the year under review, the County Assembly had eighty-two (82) Ward Office staff members against a maximum of fifty-one (51) approved by the Commission on Revenue Allocation resulting to an excess of thirty-one (31) Ward employees. The County Assembly incurred an expenditure of Kshs.24,729,240 on salaries and other benefits for the Ward office employees which was above the budget allocation by Kshs.589,257 arising from salaries and benefits to the excess staff. This contravened the Commission on Revenue Allocation Circular No. CRA/CSO/CMG/9/VOL.V(43) of 03 August, 2020 to County Assemblies on operationalization of Ward offices for members of County Assembly which allowed each Ward to employ a maximum of three (3) staff members.

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

88. Failure to Construct Speaker's Official Residence

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.179,655,649 in respect to use of goods and services which includes Kshs.37,614,420 in respect to rental of produced assets. However, review of records available indicated that the County Assembly did not incur expenditure on construction of Speaker's official residence during the year contrary to the Salaries and Remuneration Commission circular of Ref. No. SRC/TS/CGOVT/3/61 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.

Further, the County Assembly was required to provide a status report on the implementation of the SRC guideline on construction of official residence of the Speaker within an interval period of six (6) months for the Commission to assess compliance with the guidelines and provide any interventions required. However, no evidence was provided to confirm that such reports were prepared and submitted.

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

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89. Irregular Subscriptions

During the year, the County Assembly paid an amount of Kshs.750,000 in respect to subscriptions to the Society of Clerks at the Table (SOCATT). However, SOCATT is a private organization that does not draw its mandate from the Constitution of Kenya or an Act of Parliament.

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

90. Payment of Staff Salaries Outside the Payroll

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects Kshs.231,870,396 in respect to compensation of employees. However, the County Assembly paid salaries amounting to Kshs.13,251,300 to five (5) officers/members of the County Assembly but the same was not processed through the Integrated Personnel Payroll Database System (IPPD) contrary to Government policy. Further, there was no evidence that the payments were subjected to statutory deductions as required by Section 19(1)(f) of the employment Act, 2007 which states that an employer may deduct from employees any amount of which is authorized by law. It was not explained why the officers were not allocated payroll numbers.

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

91. Payment of Salaries Through County Assembly Operations Account

During the year under review, the County Assembly held an operations bank account which received transfers from the County Assembly`s CBK recurrent account for operations. However, it was observed that salary payments totalling Kshs.8,641,200 were paid through the County Assembly's operations account contrary to Regulation 99(2) of the Public Finance Management (County Governments) Regulations, 2015 that require the approved estimates of expenditure to form the basis of the accounts for the financial year.

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

92. Delay in Completion of Assembly Chambers

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects Kshs.32,554,477 in respect to acquisition of assets which includes Kshs.5,440,500 incurred on construction of the County Assembly chamber during the year under review. The construction of the Chamber commenced on 10 July, 2019, at a contract price of Kshs.314,000,768 and contract period of ninety (90) weeks and was to be completed on 31 March, 2021. However, the contract's period was extended by an additional sixty-four (64) weeks, up to 22 June, 2022 which, at the time of audit in September, 2023, had lapsed but the project was not yet complete and the contractor was not on the site.

In the circumstances, the public may not obtain value for money of the resources already spent on construction of the County Assembly building.

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93. Irregular Procurement of Legal Services

During the year under review the County Assembly paid Kshs.2,110,980 to a legal service provider for a civil case. However, information available showed that Management engaged the legal firm through direct procurement method without justification contrary to Section 104 of the Public Procurement and Asset Disposal Act, 2015. Further, no contractual documents or records such as case files, court proceedings, court attendance, contract agreement, fee note or invoice raised were provided for audit review.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

94. Lack of Training Committee

Review of records at the human resource management and development department, there was no evidence that Management appointed a training committee to manage the training function as required by the County Assembly Human Resources Policy Manual, 2019 No.7.2(1) which states that, 'the management and co-ordination of training function in the County Assembly will be the responsibility of the human resource management and development department. The Clerk will appoint a training committee whose mandate will be to manage the training function guided by the human resource management development department.

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

95. Lack of Functional and Effective Audit Committee

As previously reported, although the County Assembly has an audit committee in place, 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 committee to meet once in every three months. Further, the committee did not carry out an annual review of the independence, performance, and competency of the internal audit unit contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015, requiring such a review by the committee and make comments on the effectiveness of the internal audit unit in an annual report.

In the circumstances, the effectiveness of the audit committee in discharging its mandate could not be ascertained.

96. Inadequate Internal Audit Arrangements and Facilitation

As previously reported, review of the County Assembly`s internal audit function revealed that it was not adequately staffed and lacked requisite tools such as audit system and analytical techniques to effectively deliver on its mandate. Management has not facilitated and strengthened the internal audit function in compliance with Regulation 155(3) of the

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Public Finance Management (County Governments) Regulation, 2015 which requires the internal auditor to have unrestricted, direct, and prompt access to all records, officials or personnel holding any contractual status and to all the premises and properties of the entity.

Further, there was no evidence that internal audit work plan for the financial year under review was approved by the audit committee and included in the County Assembly`s budget in line with Regulation 163(2) of the Public Finance Management Regulations, 2015 which requires the annual work plan to be approved by the audit committee and shared with the Accounting Officer for the inclusion in the budget.

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

97. Irregular Payment for Undelivered Motor Vehicle

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.26,282,380 in respect to acquisition of assets which includes Kshs.9,160,000 relating to purchase of vehicles and other transport equipment. The County Assembly through the State Department of Public Works entered into contract on 10 March, 2021 with a local supplier for the supply and delivery of motor vehicle with a contract effective from 11 May, 2021 for a period of two years at Kshs.9,160,000. However, as at the time of audit in November, 2023, the vehicle had not been delivered to the County Assembly even after paying the full amount of Kshs.9,160,000 according to the signed contract. No plausible explanation was provided on why the County Assembly processed the payment and settled the full amount without vehicle being delivered, inspected and confirmed to be the right vehicle according to the specifications of the user department.

In addition, the proforma invoice dated 8 November, 2022 disclosed that the vehicle had arrived at Mombasa Port and was being cleared. However, another letter from the supplier dated 9 November, 2022 stated that a different model was at the Mombasa Port which was according to the Government regulation required all vehicles to be Euro-4 compliant on emission. No corresponding communication showing whether the County Assembly was in agreement or in rejection with the new development and how it affected the initial procurement contract availed for audit

In the circumstances, the existence, ownership and value for money for the Kshs.9,160,000 could not be confirmed.

Other Matter

98. 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, the Management has not resolved some of the issues raised in the report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

99. Non-Compliance with the Law on Ethnic Composition

Review of the staff establishment revealed that the County Assembly had a staff establishment of eighty-eight (88) staff. However, analysis of the establishment revealed

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that more than 1/3 of the staff belonged to the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulate 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.

100. Employees Earning Below a 1/3 of their Basic Pay

Review of the monthly payrolls provided for audit revealed that the County Assembly had ten (10) employees earning below a third of their basic salary contrary to Section 19(3) of the Employment Act, 2007.

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

101. Irregular Payment of Subscription

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects Kshs.631,506,825 in respect to use of goods and services which includes Kshs.71,637,894 relating to other operating expenses which further includes Kshs.3,200,000 paid to CAF. However, no legal backing was provided to show that the expenditure was a proper charge to public funds.

Further, other operating expenses which further includes Kshs.1,500,000 paid as subscriptions to SOCAT. However, no legal backing was provided to show that the expenditure was a proper charge to public funds

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

102. Irregular Expenditure on Domestic Travel

The County Assembly incurred Kshs.9,590,800 on domestic travel and subsistence for training of members of staff and budgetary committee meeting in Nairobi. This contravened The National Treasury Circular number 20/2015 of 4 November, 2015 on holding the events within County headquarters.

In the circumstances, the County Assembly was in breach of the law.

103. Delay in Completion of Contract for the Hansard System

The County Assembly contracted a company at a contract sum of Kshs.81,935,270 with the works scheduled to be completed on 30 June, 2023. However, at the time of audit in November, 2023, the works had not been completed although the contractor had requested for an extension. The committee on implementation granted for the extension to a further period of twenty-four (24) weeks up to 31 December, 2023. The works were at 7% complete and behind schedule and the contractor was not in a position to complete the works within the stipulated time even after extension of the project period.

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Further, the invoice issued did not indicate the serial numbers of the supplied items which made it difficult to confirm whether what was delivered is what was installed in the server room as this could not be traced in the asset register.

In addition, it was observed that the two (2) servers in the server room had been left open and accumulated dust even before the works were complete. The machines may not work appropriately once the works are complete.

In the circumstances, propriety and value for money for the hansard system could not be confirmed.

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

Basis for Conclusion

104. Incomplete Fixed Assets Register

Management did not prepare a fixed asset register in the format prescribed as it lacked identification or serial numbers, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value and identification codes with which assets were tagged.

In the circumstances, it was not possible to confirm existence of effective internal controls to safeguard the County Assembly's assets against misuse, theft or loss.

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COUNTY ASSEMBLY OF THARAKA-NITHI – NO.13

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

105. Unsupported Expenditure – Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.266,751,313 as disclosed in Note 3 to the financial statements. However, the following observations were made:

105.1 Legal Services

The expenditure includes other operating expenses balance of Kshs.25,929,463 out of which Kshs.1,900,000 was part-payment for a arbitration fee whose invoice amount was Kshs.10,888,000. However, evidence of approval to procure these services and supporting documents for the invoiced amount were not provided for audit review.

105.2 Insurance Costs

Further, the expenditure includes insurance cost amounting to Kshs.20,123,000 out of which an amount of Kshs.17,197,137 was incurred on staff medical cover. However, the bid documents of both successful and unsuccessful bidders, payment vouchers and progress report were not provided for audit. In addition, the insurance cost includes expenditure of Kshs.2,800,000 incurred on plant, equipment and machinery insurance service which was not supported by valuation report and insurance policy documents.

Further, the signed professional opinion to the Accounting Officer on the procurement proceedings did not conform to the format of the ninth schedule and Regulation 78(4) of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, the accuracy, completeness and regularity of the expenditure amounting to Kshs.22,023,000 could not be confirmed.

Emphasis of Matter

106. Pending Bills

Other important disclosures under Note 1 and 2 reflects pending accounts payable and pending staff payables balance of Kshs.117,069,290 and Kshs.13,267,099 respectively. However, the pending bills were not paid as first charge from funds of the subsequent year contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015.

Further, the pending accounts payable balance includes Kshs.14,925,000 on annual subscriptions to County Assemblies Forum and Kshs.772,000 for Society of Clerks at The Table in Kenya (SOCCAT) which are not backed by any law.

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In addition, pending bills includes Kshs.33,028,245 being amounts owed for legal services which were incurred without the approval from the Attorney General. This was contrary to Circular Ref No.AG/CONF/6/E/247 VOL.II, which prohibited Government entities from engaging the services of a consultant to render any legal services relating to functions of the Attorney General without approval of the Attorney General.

My opinion is not modified in respect of this matter.

Other Matter

107. Unresolved Prior Year Matters

In the audit 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 Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

108. Irregularities in Engagement of Casual Employees

Review of casual payment details revealed that thirteen (13) casual employees were engaged for more than three (3) months continuously and paid Kshs.4,328,126. This was contrary to Section 37(b) of the Employment Act, 2007 which states that, where a casual employee performs work which cannot reasonably be expected to be completed within a period, or a number of working days amounting to the equivalent of three months or more, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly and Section 35(1)(c) shall apply to that contract of service.

Further, recruitment documents including advertisements, list of applicants and the minutes of the interviews were not provided for audit.

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

109. Delayed Completion of Speaker's Residence

On 29 April, 2021, the Management awarded the contract for construction of speaker's residence at a sum of Kshs.33,709,617 which was signed on 20 May, 2021. However, as reported in the previous financial years, the project is still incomplete. During the year under review, the County Assembly received Exchequer for development projects of Kshs.19,070,112 against an approved budget of Kshs.20,000,000 but only Kshs.12,511,692 was paid towards the project.

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Further, the Salaries and Renumeration Commission through Circular No.SRC/TS/CGOVT/3/61/VOL.V(44) stipulated the deadline for leasing County Assembly speaker's house to be 30 June, 2022, however, as at 30 June, 2023, one year later, the project was incomplete.

In addition, the cost baseline reports that would document and detail the money paid and balances owed to the contractor vis a vis the actual works completed was not prepared by the Implementation Committee.

In the circumstances, delay in works may result in cost escalation and value for money on expenditure incurred in the construction of the speaker's residence could not be confirmed.

110. Irregular Procurement of Motor Vehicle

During the year under review, Management paid advance payment of Kshs.5,000,000 for purchase of a new motor vehicle. However, this payment exceeded 20% of the quoted sum of Kshs.12,700,000. This was contrary to Section 147(1) of the Public Procurement and Asset Disposal Act, 2015 which states that advance payments should not exceed 20% of the original quoted price. The vehicle had not been delivered at the time of this audit in July, 2023 and the validity period of the Local Purchase Order issued on 06 September, 2022 had expired.

Further, invoices, Electronic Tax Register (ETRs) and acknowledgments for the transferred amount of Kshs.5,000,000, detailed schedule of requirements, specifications and a copy of the authority for publication was not provided for audit review as required in Regulation 173(1) of the Public Procurement and Asset Disposal Regulations, 2020.

In addition, there was no evidence that the procurement was publicized on the county websites, public notice boards or the public regulatory authority platforms. This was contrary to Executive Order No.2 of 2018 on procurement which states that all public procurement entities shall maintain and continuously update and publicize complete information of all the tenders awarded.

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

111. Employees Earning Below a Third of Their Basic Salary

Analysis of the staff payrolls revealed that four (4) employees were paid net salaries that was less than a third of their basic salary. 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 Sub-Section (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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REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

112. Fixed Assets Register

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

In addition, buildings inherited from the defunct local authority had not been revalued and the fixed assets register omits the dates of purchase for some of the assets, their respective costs and status. Further, some of the assets have not been tagged for ease of tracking and verification.

In the circumstances, the existence of valuation to ensure of the fixed assets could not be ascertained.

113. Failure to Establish an Audit Committee

As reported in previous years, Management has not established an Audit Committee as required by Regulation 167(1) of Public Finance Management which states that subject to paragraph (2) of this regulation, each county government entity shall establish an audit committee.

In the circumstances, the existence of an effective mechanism of oversight on internal controls, risk management and overall governance could not be confirmed.

114. Failure to Prepare Quarterly Cash Flow Projections

As reported in the previous year, there was no evidence to indicate that Management prepared quarterly cash flows projections that were supported by approved procurement plan as required by Regulation 43(3), (4) of the Public Finance Management (County Governments) Regulations, 2015. Further, the County Treasury did not publish and publicize quarterly liquidity position reports reflecting the impact of revenue collection efforts, spending and County public debt operations on the cash position of the County Assembly as required by Regulation 45(6) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the existence of an effective tool to help management to control the resources could not be confirmed.

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COUNTY ASSEMBLY OF EMBU – NO.14

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

115. Unaccounted for Other Receipts

The statement of receipts and payments reflects nil balance on other receipts. However, an amount of Kshs.38,000 was recovered from two (2) former external County Assembly Service Board members and two (2) former Members of County Assembly (MCAs) for unreturned tablets at the expiry of their term of office. Further, Management indicated the balance on unreturned tablets from other fifteen (15) MCAs amounting to Kshs.187,500 was recovered from the members' allowances at the rate of Kshs.12,500 but supporting schedules and documents to support the recovery and accountability were not provided for audit. In addition, a balance of Kshs.12,000 from one (1) MCA who deposited an amount of Kshs.500 instead of Kshs.12,500 was also not recognized as other income in the financial statements.

In the circumstances, the accuracy and completeness of other receipts Nil balance could not be confirmed.

116. Unsupported Domestic Travel Expenditure

The statement of receipts and payments reflects use of goods and services amount of Kshs.373,437,011 and as disclosed in Note 3 to the financial statements. The amount includes domestic travel and subsistence amount of Kshs.119,816,421 out of which is an amount of Kshs.3,801,000 was not supported with evidence of travel documents such as work tickets, bus tickets and daily sitting reports or minutes.

In the circumstances, the completeness and value for money on the expenditure amounting to Kshs.3,801,000 could not be confirmed.

Emphasis of Matter

117. Pending Bills

As disclosed in Note 1 and 2 on other disclosures, the County Assembly had pending accounts payable balance of Kshs.75,044,428 as at 30 June, 2023. However, Management did not explain why the bills were not settled during the year when they occurred. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

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Other Matter

118. Unresolved Prior Year Audit Issues

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 nor given any explanation for the failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

119. Late Remittance of Provident Fund and Pension Scheme Deductions

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects social security benefits amount of Kshs.36,617,347 which includes Local Authority Provident Fund and Local Authority Pension Trust Fund deductions amounting to Kshs.25,566,485 which were remitted late. 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.

120. Non-Compliance with Law on Ethnic Composition

During the year under review, forty-five (45) or 47% out of ninety-six (96) of the County Assembly employees belonged to the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity of people of Kenya in 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.

121. Irregular Use of Low Value Procurement

The statement of financial assets and liabilities and as disclosed in Note 8 to the financial statements reflects cash and cash equivalents balance of Kshs.21,732,393. However, seven (7) and four (4) temporary imprests amounting to Kshs.348,000 and Kshs.154,800, respectively were taken to pay for bill boards advertisements and website repair which resulted to splitting of contracts to avoid the use of procurement procedure. This was contrary to Regulation 43(1) of Public Procurement and Asset Disposal Regulations,

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2020 which states that a Procuring Entity shall not split or structure its contracts for the purpose of avoiding the use of a procurement procedure as provided for under Section 54(1) of the Act and Second Schedule on the Threshold Matrix of the Public Procurement and Asset Disposal Regulations, 2020 which states that the maximum low value item level of expenditure per item per financial year allowed for goods, works and services is Kshs.50,000, Kshs.100,000 and Kshs.50,000 respectively.

Further Electronic Tax Receipts (ETR) were not obtained as required by Regulation 93(2) of Public Procurement and Asset Disposal Regulations, 2020 which states that any procurement under paragraph (1) shall be supported by the original Kenya Revenue Authority Electronic Tax Receipt (KRA ETR Receipt) duly signed by the person undertaking the low value procurement of goods, works or services.

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

122. Irregular Payment of Subscriptions

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects other grants and transfers amount of Kshs.71,757,560 which includes membership fees, dues and subscriptions to organizations amount of Kshs.12,105,560 out of which an amount of Kshs.10,194,000 was irregularly paid to County Assembly Forum and Society of Clerks at the Table. However, there was no legislative framework to support the payments. However, the two (2) bodies are private organization that does not draw its mandate from the Constitution of Kenya or an Act of Parliament.

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

123. Unvalued Ward Offices and Lapsed Lease Agreements

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.373,437,011 which includes rentals of produced assets of Kshs.29,048,399 out of which an amount of Kshs.2,817,154 was incurred on payment of rent for leased ward offices. Although Management has shown efforts of undertaking valuation processes, the County Assembly has not completed the new valuation for the ward offices and has continued paying rent based on old rates. It was therefore not possible to ascertain whether the rates at which the premises were paid for is the current prevailing market rates. Further, the lease agreements were not provided for audit. This was contrary to Regulation 139(3) of Public Procurement and Asset Disposal Regulations, 2020 which states that payments shall only be made after an invoice or fee note is accurately raised and submitted in accordance with the provisions of the contract.

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

124. Delay in Completion of Office Complex Project

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects acquisition of assets amount of Kshs.47,728,000 which includes construction of buildings amount of Kshs.34,312,078 out of which an amount of

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Kshs.29,416,020 was for construction of the County Assembly Office Complex. Review of contract documents revealed that the project entailed construction of a seven (7) storey office complex. The contractor was awarded the contract on 4 July, 2019 at a contract sum of Kshs.349,707,101 with commencement date of 17 June, 2019 for a period of one hundred and four (104) weeks. An extension of the contract was later given for fifty-six (56) weeks after lapse of first contract but as at 30 June, 2023, the project had cumulatively incurred an amount of Kshs.144,600,757 representing 41.3% of the contract sum and the project completion was at 52% with nine (9) months remaining to the expiry of the extended completion period.

Review of the project status revealed delay in implementation of this project. This was contrary to Regulation 137(c) of Public Procurement and Asset Disposal Regulations, 2020 which states that in managing complex and specialized procurement contracts under Section 151 of the Act, contract implementation shall be as per the project implementation plan agreed upon by the contractor and the procuring entity. No satisfactory explanation was provided for the delay in implementation of this project since substantial funding had been allocated.

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

125. Delay in Construction of Speaker's Residence

Review of IFMIS development expenditure vote book status report reflects that the County Assembly allocated an amount of Kshs.10,000,000 in the original budget towards the purchase of land for construction of Speaker's residence which was later revised to Nil balance in the supplementary budget. The same project had been allocated an amount of Kshs.8,000,000 in the 2021/2022 financial year which was not utilized. Management provided a letter requesting the County Executive Committee Member for Lands, Physical Planning, Housing and Urban Development for suitable land but there was no evidence of further communication or follow up.

Further, the County Assembly continued to pay rent for the Speakers residence contrary to Salaries and Remuneration Commission (SRC) Circular requiring the Counties to hasten the construction of the official residences by allocating funds and prioritizing the construction and SRC Circular Ref No. SRC/ADM/11 dated 27 June, 2022 which advised that the option for County Governments paying rent or leasing official residential house for Governors, Deputy Governors and County Assembly Speaker shall cease on 30 June, 2022. The County Assembly paid an amount of Kshs.900,000 in 2022/2023 financial year being part payment of a residential accommodation for the Speaker out of the annual rent amounting to Kshs.981,660.

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

126. Lack of an Assets Disposal Plan

During the year under review, the County Assembly did not have an approved disposal plan of items declared as unserviceable, surplus, idle or obsolete contrary to Regulation 176(1) of Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer of a procuring entity shall ensure that an annual assets disposal plan

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for items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment as set out under Section 53(4) of the Act.

Further, physical inspection carried out in the month of August, 2023 revealed that the County Assembly still held sixteen (16) tablets returned by the former MCAs in September, 2022 which are not being utilized and continue to deteriorate.

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

127. Failure to Provide Annual Operations Report for the County Assembly Service Board

Management of the County Assembly did not provide County Assembly Service Board annual operations report for 2022/2023 financial year contrary to Section 36(1) of the County Assembly Services Act, 2017 which states that within three months after the end of each calendar year, the Board shall prepare and lay before the County Assembly, a report of its operations during that year.

In the circumstances, it was not possible to confirm whether County Assembly Service Board delivered on the mandated functions.

128. Avoidable Expenditure on Penalties and Interests on Late Remittance of Statutory Deductions

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees amount of Kshs.252,112,264 which includes Pay As You Earn Tax amount of Kshs.20,558,271 remitted late in 2022/2023 financial year. However, the Kenya Revenue Authority imposed penalties and interest amounting to Kshs.1,027,914 and Kshs.205,583, respectively, for late payments which could have been avoided had the deductions been remitted on time. The late remittance contravenes Section 72D of Income Tax Act, 2012.

In the circumstances, the regularity and value for money for penalties and interest amounting to Kshs.1,233,497 could not be confirmed.

129. Irregular Expenditure on Temporary Imprest

Review of surrender payment vouchers revealed irregular imprest expenditure of Kshs.1,279,676 incurred on purchase of meals and refreshments for officers who had already been paid per diem contrary to Regulation 93(3) of Public Finance Management (County Governments) Regulations, 2015 which states that temporary imprests shall be issued mainly in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

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

130. Lack of Risk Management Policy

During the year under review, 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 contrary to Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the role of Accounting Officer in risk management is to ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism and the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the circumstances, identification of risks affecting the operations and existence of a risk register of the County Assembly could not be confirmed.

131. Summary of Non-Current Asset Register

The summary of non-current assets register reflects a balance of Kshs.237,726,406 as disclosed in Annex 3 to the financial statements which excludes value of land. Further, Management did not value the land and did not provide land ownership documents for audit. In addition, the assets handing over report from the defunct County Council of Embu was also not provided for audit.

Further, the summary of non-current assets register as disclosed in Annex 3 to the financial statements reflects a balance of Kshs.237,726,406 while the fixed assets register reflects total assets balance of Kshs.243,404,678 resulting to an unexplained and unreconciled difference of Kshs.5,678,272. Further, the fixed assets register provided does not indicate totals of each asset class.

In the circumstances, the effectiveness of mechanism to safeguard assets could not be confirmed.

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COUNTY ASSEMBLY OF KITUI – NO.15

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

132. Unconfirmed Foreign Travel and Subsistence Allowances

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects expenditure totalling Kshs.472,793,697 under use of goods and services. However, review of the expenditure revealed that included in the amount is Kshs.90,664,200 relating to foreign travel and subsistence. Review of the payment records revealed that an amount of Kshs.19,883,534.00 was incurred on payments of air ticketing, accommodation, conferences and training for courses offered mainly in Middle East and Asiatic Countries. However, no justification was provided in support of why the programs were undertaken abroad and not locally.

In the circumstances, the propriety of the expenditure could not be confirmed

Emphasis of Matter

133. 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 amount of Kshs.1,529,877,619 and Kshs.1,029,936,698 respectively resulting to an under-funding of Kshs.499,940,921 or 33% of the approved budget. Similarly, the County Assembly expended Kshs.1,029,694,736 against an approved budget of Kshs.1,529,877,619 resulting to an under-expenditure of Kshs.500,182,883 or 33% of the budget.

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

134. Pending Bills

Annex 1 to the financial statements, analysis of pending accounts payable reflects pending bills amounting to Kshs.11,691,804 that were unsettled as of 30 June, 2023. However, no explanation was given for failure to settle the bills. Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the pending bills form the first charge.

My opinion is unmodified in respect of these matters.

Other Matter

135. 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

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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 template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

136. Irregular Payment to the County Assembly Forums

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects expenditure totalling Kshs.472,793,697 under use of goods and services. However, review of the expenditure revealed that included in the amount is Kshs.34,837,763 relating to other operating expenses. The amount is further made up of Kshs.2,700,000 in respect to subscriptions paid to County Assemblies Forum and Society of Clerks. However, it was noted that these entities are not established in law and therefore the payment amounting to Kshs.2,700,000 was irregular.

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

137. Non-Compliance with Law on Ethnic Composition

Review of human resource records revealed that one hundred and thirty-one (131) employees representing 96% of the total employees of one hundred and thirty-six (136) employees were from one dominant ethnic community in the County. This is in contravention of Section 7(2) of the National Cohesion and Integration Act 2008 which requires that no public establishment shall have more than one third (1/3) of its employees from the same ethnic community.

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

138. Delays in the Construction of Speaker's Residence

As reported previously, Kitui County Assembly invited tenders vide tender No. CAKITUI/1/02/2020/2021 for the purchase of land for the construction of the speaker's official residence within Kitui town. The tender was by way of restricted tender posted on its website and supplier portal. Through the statement of professional opinion dated 29 March, 2021, the Accounting Officer approved the process to proceed to the next stage. However, the minutes of the tender evaluation committee for purchase of the land for the construction of the Speakers official residence held on 30 April, 2021 (negotiation process) recommended that the tender be re-advertised. The re-advertisement had not been actualized as at the date of completing the audit.

In the circumstances, the delayed construction of the Speaker's residence may hinder effective delivery of service by the Speaker.

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

Basis for Conclusion

139. Lack of a Risk Management Policy

Review of internal controls revealed that the County Assembly does not have a risk management policy and there was also no evidence to show that formal risk assessment was undertaken. This is in contravention of the provisions of Regulation 158 (1)(a) 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 develop a system of risk management and internal controls that build robust business operations.

In the circumstances, the County Assembly is exposed to losses and interruption of operations in the event a disaster occurs.

140. Lack of a Disaster Recovery and Business Continuity Plan

During the year under review, the County Assembly operated without a disaster recovery and business continuity plan contrary to the provisions of Section 99 of the Public Finance Management Act, 2012. The Act 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 disaster.

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

141. Use of Manual Payroll

As previously reported, the County Assembly of Kitui operates two parallel payrolls, manual payroll and Integrated Payroll and Personnel Database (IPPD). It was not clear why spreadsheet payroll was operated parallel to IPPD instead of having all the staff managed in the recommended database platform. Further, use of spreadsheet as the basis for maintaining payroll is not sanctioned by law and is prone to changes and manipulation with no audit trail.

In the circumstances, the County Assembly payroll management is prone to errors.

142. Value of Assets

Annex 4 to the financial statements on summary of non-current asset register shows that the County Assembly had assets cumulatively valued at Kshs.642,248,435. The assets include those acquired and those inherited from the defunct Local Governments and Kitui County Government. However, the handing over and ownership documents were not provided for audit verification. Further, the asset register includes land and buildings

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valued at Kshs.534,910,705 whose ownership documents were also not provided. Further, Management did not provide a breakdown of the valuation amounts and the basis for their inclusion.

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

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COUNTY ASSEMBLY OF MACHAKOS – NO.16

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

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

Review of statements of receipts and expenditure indicates the following balances differs with the IFMIS payments records as tabulated below;

Expenditure Components	Statement Balance Kshs.	IFMIS Balances Kshs.	Variances Kshs.
Use of Goods and Services	397,666,774	357,744,649	39,922,125
Grants and Transfers	86,244,000	102,391,600	(16,147,600)
Social Security Benefits	29,378,130	29,417,321	(39,191)
Acquisition of Assets	27,039,660	30,716,406	(3,676,746)

No reconciliation as examination was provided.

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

144. Irregularities in Payments of Ward Rent and Office Expenses

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.397,666,774 in respect of use of goods and services which includes an amount of Kshs.15,157,500 relating to ward rent and office expenses. Review of the payment records revealed that an amount of Kshs.93,000 was incurred on payments of ward rent for five (5) ward offices. However, it was observed that the lease agreements between the County Assembly and the landlords had expired approximately three (3) months before the end of the financial year and had not been renewed.

In the circumstances, the accuracy and completeness of the ward rent of Kshs.15,157,500 could not be confirmed.

Emphasis of Matter

145. 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.1,508,346,181 and Kshs.1,132,140,390 respectively resulting to an under-funding of Kshs.376,205,791 or 25% of the approved budget. Similarly, the County Assembly expended Kshs.1,132,055,865 against an approved budget of Kshs.1,508,346,181 resulting to an under-expenditure of Kshs.376,290,316 or 25% of the budget.

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

146. Pending Bills

Annex 1 to the financial statements reflects a balance of Kshs.106,896,389 in respect of pending account payable. However, pending bills balance of Kshs.66,532,791 have been outstanding for more than one (1) year with some dating back to August, 2018. Management has not explained the reasons for failure to settle the long outstanding amounts as they ought to form the first charge in the subsequent period. Failure to settle bills in the year to which they relate adversely affects the implementation of the subsequent year budgeted programs as the pending bills form the first charge to the subsequent year budget. The County Assembly is also at risk of incurring penalties and interest with the continued delays in settlement of the bills.

My opinion is not modified in respect of these matters.

Other Matter

147. 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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

148. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees of the County Assembly was one hundred and thirty-four (134) employees out of which one hundred and twenty-two (122) or 91% 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 requires that no public establishment shall have more than one third (1/3) of its employees from the same community.

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

149. Irregular Payment to the County Assembly Forums and SOCATT

The statement of receipts and payments reflects use of goods and services amount of Kshs.397,666,774 and as disclosed in Note 5 to the financial statements. The amount includes an expenditure of Kshs.12,180,441 incurred on other operating expenses out of which a balance of Kshs.5,200,000 was paid to Society of Clerks at the Table (SOCATT)

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and the County Assemblies Forum as annual subscription fees. However, the two (2) entities are not intergovernmental relation in legal capacity and the payments were not budgeted for under the National Government's estimates.

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

150. Delay in Construction of New Chambers

The County Assembly entered into a contract for the construction, equipping and furnishing of Modern Chamber and associated works at a contract sum of Kshs.349,312,987. The project commenced on 9 June, 2020 and was set to be completed on 6 June, 2022. According to the latest progress report dated May, 2023, the overall progress of work amounted to Kshs.121,419,123 representing 35%, while the payments amounted to Kshs.116,045,041 or 33%. The completion date was extended to 19 December, 2022 which has since lapsed, and no further extensions have been approved to date but the project was incomplete at the time of audit in December, 2023.

In the circumstances, value for money on the payments amounting to Kshs.116,045,041 on construction of the Chambers could not be confirmed.

151. Delay in Completion of Ward Offices

The statements of receipts and payments and as disclosed in Note 10 to the financial statements reflects an amount of Kshs.27,039,660 incurred on acquisition of assets. Included in the amount is an expenditure of Kshs.21,735,865 on construction of buildings. Examination of the projects undertaken by the County Assembly during the year under review revealed that construction of ward offices in Matungulu East, Kangundo North, Kivaa and Ndalani was ongoing and Construction of ward office at Muthwani had stalled due to land disputes while Construction of four (4) (Machakos Central, Muvuti, Mbiuni and Wamunyu) ward offices was yet to be commenced as land had not been identified.

In the circumstances, value for money on Kshs.21,735,865 spent on construction of the buildings could not be confirmed.

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

Basis for Conclusion

152. Use of Manual Payroll

As previously reported, the County Assembly operates two parallel payrolls, a manual payroll and Integrated Payroll and Personnel Database (IPPD). It was not clear why spreadsheet payroll was operated parallel to IPPD instead of having all the staff managed in the recommended database platform. Spreadsheet is prone to changes and manipulation with no audit trail.

In the circumstances, the integrity of payroll data could not be confirmed.

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153. Non-Functional Audit Committee

During the year under review, the audit committee was not fully constituted contrary to Regulations 167(4) of the Public Finance Management (County Governments), 2015 which requires the Accounting Officer to ensure that each County Government entity has an audit committee in place and whose membership shall be a minimum of three, excluding a person who shall be appointed to represent the County Treasury in each audit committee and a maximum of five.

In the circumstances, the absence of a functional audit committee may lead to ineffective internal controls.

154. Unconfirmed Value of Assets

Annex 4 to the financial statements reflects a balance of Kshs.904,456,240 in respect of summary of non-current asset register. The assets include those acquired and others inherited from the defunct Local Governments and the Machakos County Government. However, the handing over and ownership documents for the assets were not provided for audit review. In addition, the assets register also includes land, buildings and structures valued at Kshs.624,590,486 whose ownership documents and breakdown of valuation amounts were not provided for audit review.

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

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COUNTY ASSEMBLY OF MAKUENI – NO.17

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

155. Inaccuracies in the Financial Statements

The financial statements reflect balances that were at variance with the Integrated Financial Management Information System (IFMIS) balances as summarized below:

Item	Financial Statements Balance (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Cash and Cash Equivalents	11,630,893	(545,789,398)	557,420,291
Accounts Receivable	-	(28,338,255)	28,338,255
Accounts Payables	9,477,191	64,231,163.60	54,753,972.60
Fund Balance b/fwd	313,175	(640,199,345)	640,512,520

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

156. Misclassification of Expenditure on Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets balance of Kshs.35,660,804 and as disclosed in Note 10 to the financial statements. Included in the amount is expenditure on construction and civil works amounting to Kshs.18,880,044. Review of the supporting documents revealed that the amount includes expenditure on consultancy services of Kshs.1,955,760 for the development of the County Assembly Strategic Plan 2020-2025, that was charged to acquisition of assets instead of use of goods and services.

In the circumstances, the acquisition of assets amount of Kshs.35,660,804 for the year ended 30 June, 2023 is overstated by Kshs.1,955,760 while the use of goods an ser vices is understated by a similar margin.

157. Inaccuracies in Finance Costs

The statement of receipts and payments reflects finance costs of Kshs.1,884,331, as disclosed in Note 11 to the financial statements. Review of supporting documents revealed that the bank charges included penalty charges by the bank for late settlement of overdrafts of Kshs.1,064,628. However, penalty charges for late settlement of overdrafts during the period amounted to Kshs.2,124,827. The balance is therefore understated by Kshs.1,060,199.

In the circumstances, the accuracy and completeness of the reported finance costs of Kshs.1,884,331 for the year ended 30 June, 2023 could not be confirmed.

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158. Double Compensation on Transportation Expenses to Members of County Assembly (MCAs)

As previously reported, the statement of receipts and payments reflects compensation of employees` expenditure amounting to Kshs.342,548,100. This amount includes Kshs.142,219,385 under personal allowances paid as part of salary that further includes Kshs.21,111,448 and Kshs.2,124,601 for transport allowance and mileage allowance respectively, for Members of the County Assembly (MCAs). However, the review of the vehicle records revealed that three (3) MCAs had also been allocated personal vehicles fully maintained and fuelled by the County Assembly which amount to double compensation on transport expenses.

In the circumstances, the completeness and propriety of the compensation of employees` expenditure amounting to Kshs.142,219,385 could not be confirmed.

159. Irregular Oversight and Public Participation Expenses

The statement of receipts and payments reflects use of goods and services balance of Kshs.381,390,355 as disclosed in Note 5 to the financial statements. Included in the amount is other operating expenses of Kshs.134,352,072 which further includes Kshs.20,604,600 and Kshs.33,635,250 both totalling Kshs.54,239,850 incurred on oversight and public participation activities respectively.

The amount relates to payments made to elected MCAs at a rate of Kshs.50,000 and Kshs.70,000 each for facilitation during public participation and oversight activity respectively. The rates applied are however not approved in the Salaries and Remuneration Commission (SRC) Gazette notice on remuneration and benefits for state officers in the County Assembly dated 9 August, 2022, covering financial years 2021/2022 to 2024/2025. Further, each participating MCA was paid transport facilitation of Kshs.6,000 per day regardless of the distance covered.

In the circumstances, the propriety of the payments amounting to Kshs.54,239,850 could not be confirmed.

160. Irregular Ward Lease Agreements

As previously reported, the statement of receipts and payments reflects use of goods and services expenditure totalling Kshs.381,390,355 as disclosed in Note 5 to the financial statements. The amount includes rentals of produced assets of Kshs.3,671,500. However, review of the rental leasehold agreements revealed that the Ward lease agreements were entered into between the Ward representatives (lessees) and the landlord (lessors) instead of between the County Assembly of Makueni and the Landlords. Further, the lease agreement documents prepared were not signed or endorsed by an Advocate of the High Court or County Assembly head of legal services to validate the agreement. In addition, the agreements were not adequately supported with copies of title deeds for the landlords to show ownership of the land, registration of the land to be leased and the ownership of the building that was being leased, or part thereof.

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In the circumstances, the propriety of rental of produced assets expenditure of Kshs.3,671,500 could not be confirmed.

Emphasis of Matter

161. Pending Bills

Note 1 to the financial statements on Other Important Disclosures reflects pending accounts payable of Kshs.6,274,494 as at 30 June, 2023. Management has not explained why the bills were not settled during the year they occurred.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they are charged as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

162. 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. Management had however, not resolved the issues or given any explanation for failure to implement the recommendations as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

163. Non-Compliance with Law on Development Expenditure Threshold

The statement of comparison of budget and actual amounts reflects total actual expenditure of Kshs.933,261,445 comprising of recurrent and development expenditure of Kshs.914,381,401 and Kshs.18,880,044 respectively. The development expenditure accounted for only 2% of the total expenditure which is below the 30% threshold stipulated by Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015.

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

164. Non-Compliance with Law on Imprests

Note 5 to the financial statements reflects domestic travel and subsistence allowances of Kshs.72,896,888. The amount includes per diem allowances totalling Kshs.18,678,325 paid to Members of the County Assembly and other members of staff for travels outside the County to transact County Assembly business that would ordinarily be carried out in the offices, contrary to Regulation 93(4)(a) of the Public Finance Management (County

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Governments) Regulations, 2015 which provides that before issuing temporary imprest the Accounting Officer shall ensure that the main objective of the journey cannot be achieved by other cheaper means.

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

165. Failure to Comply with the Ceiling for Ward Operation Costs

Note 5 to the financial statements reflects other operating expenses amount of Kshs.134,352,072. The operating expenses includes Kshs.52,925,580 in respect to ward operation cost for forty-eight (48) ward offices excluding rent. However, the expenditure, however, exceeds the ceiling of Kshs.15,728,832 stipulated in the Commission of Revenue Allocation (CRA) Circular no. CRA/CSO/CMG/9/VOL.V(43) dated 3 August, 2020 on Advisory of Ward Offices Operation Costs.

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

166. Irregular Subscription to Devolution Forums

The statement of receipts and payments reflects use of goods and services amount of Kshs.381,390,355 as disclosed in Note 5 to the financial statements. Included in the amount is other operating expenses of Kshs.134,352,072. The operating expenses includes Kshs.2,500,000 and Kshs.750,000 paid to the County Assembly Forum (CAF) and Society of Clerks at the Table (SOCATT) respectively. However, there was no legal basis for the establishment of CAF and SOCATT.

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

167. Non-Compliance with Human Resource Regulations and Policies

167.1 Failure to Meet Recruitment Threshold for Persons with Disabilities

During the year under review, the County Assembly recruited twenty-one (21) employees excluding any person living with disability. This was contrary to the provisions of Section B.23(2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 on rights and privileges of persons with disabilities.

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

167.2 Non-Compliance with Staff Ethnic Diversity Composition Threshold

Review of the County Assembly payroll for June, 2023 revealed that the County Assembly had a total of one hundred and fifty-six (156) employees out of which one hundred and forty-nine (149) or 95.5% were from the local dominant community. 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 employment of staff, and that no public establishment shall have more than one third of its staff from the same ethnic community. In addition, the County Assembly recruited twenty-one (21) employees during the year, all from the local dominant ethnic community. This was contrary to Section 65(1)(e) of the County Government Act, 2012 which requires

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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 positions at entry level are filled by candidates who are not from the dominant ethnic community in the country.

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

167.3 Failure to Adhere to Probation Terms of Service

Review of the Integrated Personnel Payroll Database (IPPD) records revealed that the County Assembly had a total of one hundred and fifty-six (156) employees as at 30 June, 2023 out of which ten (10) were serving on probation terms. It was however, noted that these employees had worked for periods ranging from twelve (12) months to ten years contrary to the provisions of Section 3.1 of Makueni County Assembly Human Resource Manual on appointment of staff on probation and pensionable terms.

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

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

Basis for Conclusion

168. Weaknesses in Imprests Management

The statement of receipts and payments reflects use of goods and services amount of Kshs.381,390,355. Included in the amount is domestic travel and subsistence allowances expenditure of Kshs.72,896,888 as disclosed in Note 5 to the financial statements.

Review of supporting documents revealed that the County Assembly incurred expenditure of Kshs.64,699,865 through refunds for daily subsistence allowances to employees. The officers did not apply for imprests through imprest warrants. In addition, the imprest register maintained by the County Assembly did not reflect the date the imprest was issued, its purpose, amount surrendered and balance outstanding. This contravenes the provisions of Regulations 91(2) and 93(4) of the Public Finance Management (County Governments) Regulations, 2015 which require proper accountability for imprests.

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

169. Use of Manual Payroll

Review of payroll records provided for audit revealed that the County Assembly operated two payroll systems that is; a manual (excel format) payroll system and the Integrated Personnel and Payroll Database (IPPD) system. In the year under review, emoluments totalling Kshs.31,908,185 were processed through the manual payroll. 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.

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In the circumstances, there were weak internal controls on management of personnel emoluments.

170. Lack of an Audit Committee

Review of the operations and structures of the County Assembly revealed that the it operated without an audit committee during the year under review. The previous committee members tenure had expired having been appointed on 1 January, 2019 for three (3) years.

In the circumstances, Management did not get assurance on effectiveness of the operation and necessary policy direction from the Audit Committee.

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COUNTY ASSEMBLY OF NYANDARUA – NO.18

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

171. Compensation of Employees

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees amounting to Kshs.305,842,391.

However, the following unsatisfactory matters were noted:-

171.1 Unsupported Payment of Special House Allowance

The compensation of employees amount includes an amount of Kshs.106,625,953 in respect of personal allowances paid as part of salary which further includes an amount of Kshs.70,099,213 paid as special house allowance. However, Management did not provide approval from the Salaries and Remuneration Commission to support payment of the special house allowance.

171.2 Unsupported Mileage Allowances

Further, included in the compensation to employees amount is an amount of Kshs.106,625,953 in respect of personal allowances paid as part of salary. The personal allowances further include an amount of Kshs.9,148,932 in respect of mileage allowances paid to Members of County Assembly (MCAs). However, review of the supporting documents on the mileage allowances revealed that claims were not supported by copies of motor vehicle log books or lease agreements as proof of ownership of motor vehicles used by the respective Members while travelling from the County Assembly offices to their respective Ward offices.

In the circumstances, the accuracy and propriety of the compensation to employees amount totalling Kshs.79,248,145 could not be confirmed.

171.3 Variance in Transfers from County Treasury

The statement of receipts and payments reflects transfers from County Revenue Fund (CRF) of Kshs.897,532,346 as disclosed in Note 1 to the financial statements. However, the County Revenue Fund financial statements reflected transfers to the County Assembly amount of Kshs.876,225,353 resulting to an unreconciled variance of Kshs.21,306,993.

In the circumstances, the accuracy of the transfers from County Revenue Fund of Kshs.897,532,346 could not be confirmed.

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Emphasis on Matter

171.4 Pending Bills

Annex 1 of the financial statements on other disclosures reflects pending accounts payable of Kshs.108,425,658, comprising of payables in respect of construction of buildings, supply of goods and supply of services. However, the balance was not supported by detailed aging analysis and supporting schedules for the opening balances, breakdown of the pending bills paid during the year and the aging analysis of the balance as at 30 June, 2023.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they are charged as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

172. 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, the Management did not resolve the issues or provide any explanation for failure to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

173. Failure to Implement E-Procurement System

Review of procurement records revealed that during the year, procurement of goods and services through request for quotations was done outside the Integrated Financial Management Information System (IFMIS). This was contrary to the requirement of 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.

174. Non-Compliance with the Law on Ethnic Composition

Review of human resource records revealed that the County Assembly had two hundred and fourteen (214) employees as at 30 June, 2023, out of which two hundred and three (203) members equivalent to 95 % of the total employees were from the dominant ethnic Community. This was contrary Section 7(2) of the National Cohesion and Integration Act,

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2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

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

175. Non-Compliance with One Third Rule on Salary Deduction

Analysis of sampled staff from the payroll revealed that sixty-six (66) employees were earning less than one third of their basic salaries in different months. This was contrary to Section 19(3) of the Employment Act, 2007 which provides 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.

176. Late Remittance of Statutory Deductions

Review of records indicated that Management did not remit deductions and contributions owed to the National Social Security Fund (NSSF) of Kshs.1,008,400 and National Hospital Insurance Fund (NHIF) of Kshs.590,700 respectively as at 30 June, 2023 within the statutory timelines. This was contrary to Section 19(4) of the Employment Act, 2007, which states that an employer who deducts an 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 a may be.

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

177. Irregular Payment of House Allowance to the Speaker of the County Assembly

Analysis of the July, 2022 to June, 2023, Integrated Payroll and Personnel Database (IPPD) revealed that the Speaker of the County Assembly was paid rental house allowance amounting to Ksh.640,000. This was contrary to the Salaries and Remuneration Commission Circular Ref. No: SRC/ADM/11 dated 27 June, 2022, which stipulates that the option for County Governments paying rent/leasing official residential houses for Governors, Deputy Governor and County Assembly speaker shall cease on 30 June, 2022 as earlier communicated.

In the circumstances, Management was in breach of the law

178. Direct Payments of Subsistence Allowances to County Assembly Staff Outside IFMIS

Review of payment vouchers totalling Kshs.60,123,100 revealed that the County Assembly paid its staff imprests and subsistence allowances directly through selected banks avoiding individual requisitions of imprest through Integrated Financial Management Information System (IFMIS). In addition, the County Assembly incurred an

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amount of Kshs.24,203,795 on foreign travel and subsistence allowance. It was however, noted that the officers proceeded on foreign trips before being issued with imprest and made claims after returning from the assignments. This was contrary to Regulation 93(3) Public Finance Management (County Governments) Regulations, 2015 which provides that temporary imprests shall be issued mainly in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses. Management did not explain the necessity why officers financed the foreign trips and sought refunds later.

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

179. Irregular Payments on Subscriptions and Memberships

The statement of receipts and payments reflects expenditure on use of goods and services totalling Kshs.309,132,070 which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.28,830,605 in respect of other operating expenses. Included in the operating expenses were payments of Kshs.2,500,000 and Kshs.500,000 made to the Society of Clerks At The Table (SOCATT) and County Assemblies Forum (CAF) respectively as annual subscription fees. However, Management did provide justification for the payments to the two organizations without legal or policy framework that support payment of subscriptions to the two organizations.

In the circumstances, the regularity of the payments of Kshs.3,000,000 could not be confirmed.

180. Irregular Payment of Legal Expenses

Annex 1 of the financial statements on other disclosures reflects pending accounts payable of Kshs.108,425,658 which includes payables in respect of legal services amounting to Kshs.34,891,150. However, the legal services were not included in annual procurement plan for the year under review. This was contrary Section 45(3)(a) of Public Procurement and Asset Disposal, Act 2015 which provides that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan.

Further, the Management did not provide the relevant procurement records to confirm that the legal firms were competitively identified and engaged. This was contrary to Section 44(2)(d) of the Public Procurement and Asset Disposal Act, 2015 which provides that in the performance of the responsibility under subsection (1), an accounting officer shall ensure proper documentation of procurement proceedings and safe custody of all procurement records in accordance with the Act.

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

181. Delayed Projects Completion

Review of the project's implementation records revealed that the following projects were not completed within the contract period stipulated in the contract agreements:

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181.1 Proposed Construction of Office Block at the Existing Nyandarua County Assembly

The Construction of office block at the existing Nyandarua County Assembly at a cost of Kshs.535,000,000 which commenced on 17 October, 2017 was expected to be completed in May, 2019. However, audit inspection carried out in the month of October, 2023 revealed that the project was incomplete. Further, Management did not provide for audit review the project files detailing the status of the project.

181.2 Proposed Construction of Speaker's Official Residence

The construction of Speaker's official residence at a cost of Kshs.37,799,670 commenced on 16 June, 2020 and was expected be completed on 26 January, 2021. However, audit inspection carried out in the month of October, 2023 revealed that the project was incomplete. In addition, Management did not provide for audit review the project progress reports and completion certificates of certified works.

In the circumstances, value for money spent on the projects have been realized due delayed completion of the projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

182. Lack of Effectiveness of Assets Management and Controls

Review of the fixed asset register revealed that the asset register maintained was not properly updated and detailed supporting schedules and analysis for each asset category was not provided for audit review. Relevant details in regard to the land size, land values for the parcels of land owned by the County Assembly, key assets information including date of acquisition, costs, accumulated depreciation, net book values, assets locations and codes were not included in the asset register. Management did not provide title deeds for the parcels of land owned by the County Assembly. It was therefore not possible to confirm the ownership status and security of the County Assembly's land.

Further, Management did not provide evidence that the major assets were valued since the year 2014. In Addition, Management did not provide records for assets count and verification carried at regular intervals to confirm existence and condition of the recorded assets. It was noted that most of the assets were not tagged and asset movement registers were not properly maintained. Although there were some unserviceable assets which were already bonded there was no evidence of disposal of any assets in the last three years to save on storage costs, space and obtain better salvage value.

In addition, the fixed asset register maintained revealed that laptops issued to some officers were missing. Management did not provide measures put in place to recover the missing laptops from the concerned officers.

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In the circumstances, the effectiveness of the County Assembly's asset management system and its ability to safeguard the County Assembly assets could not be confirmed.

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COUNTY ASSEMBLY OF NYERI - NO.19

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

183. Variances in Statement of Receipts and Payments

Review of the financial statement generated from the Integrated Financial Management Information System (IFMIS) and the balances reflected in the statement of receipts and payments revealed variances under Exchequer releases and use of goods and services which have not been reconciled as shown below.

Financial statement Component	Note	Financial Statements Balances 2022/2023 (Kshs.)	IFMIS Financial Statements-Balances 2022/2023 (Kshs.)	Variance (Kshs.)
Exchequer Releases	1	734,121,427	719,389,972	14,731,455
Use of Goods and Services	5	392,862,238	393,150,018	(287,780)

Further, the annual report and trial balance had a total debit and credit balances of Kshs.734,121,427 while the IFMIS trial balance had Kshs.10,608,725,887 resulting to un-explained and unreconciled variance of Kshs.9,874,604,460.

In the circumstances, the completeness and accuracy of the two balances reported in the statement of receipts and payments could not be confirmed.

184. Irregular Payment of Special Salary and House Allowance

Review of the payroll records revealed that the Clerk and a member of the County Assembly Service Board were being paid special salary without disclosure of basic salary. The clerk was also paid a special house allowance. It was not clear under what circumstances the officers were paid the special salary yet there is a job group attached to them.

In addition, review of Integrated Payroll and Personnel Database (IPPD) revealed that the speaker to the County Assembly earned rental house allowance amounting to Ksh.640,000. This was contrary to Salaries and Remuneration Commission Circular Ref. No: SRC/ADM/11 dated 27 June, 2022, which stipulated that the option for County Governments paying rent/leasing official residential houses for Governors, Deputy Governor and County Assembly speaker shall ceases on 30 June, 2022.

In the circumstances, the regularity of the rental expenditure amounting to Kshs.640,000 could not be ascertained.

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185. Irregular Payment of Ward Administration Expenses

The statement of receipts and payments reflects use of goods and services amounting to Kshs.392,862,238 which, as disclosed in Note 5 to the financial statements includes other operating expenses totalling Kshs.48,552,059. The other operating expenses includes reimbursement totalling Kshs.22,242,003 made to forty-four (44) MCAs as claims for expenditure incurred in running the ward operational costs. Further, it was not clear why the MCAs were incurring costs for their ward offices and then making claims as reimbursements for costs incurred. In addition, a memorandum cash book to record all receipts and payments and the balance on hand was not maintained by the officers.

In the circumstances, the regularity of the expenditure amounting to Kshs. 22,242,003 could not be ascertained.

186. Irregular Rent and Rates

The statement of receipts and payments reflects use of goods and services amounting to Kshs.392,862,238. The amount includes other rental of produced assets totalling Kshs.4,479,000 paid to various landlords for having leased their properties to Members of County Assembly (MCAs) to use as their offices. Review of the payment details report and other provided documents revealed that no competitive procurement was done and no market survey was conducted to establish the prevailing market prices on rental houses. Further, a standard amount of Kshs.10,000.00 per month was being paid to the landlords from the month of July to September, 2022 and from 1 October, 2022 to 30 June, 2023, the monthly payment was increased to Kshs.11,000. The engagement of these landlords to provide these services was against the Public Procurement and Asset Disposal Act, 2015, Section 103 (2) guideline on when direct procurement may be used.

In the circumstances, the propriety of the expenditure amounting to Kshs. 4,479,000 could not be confirmed.

Emphasis of Matter

187. Pending Accounts Payable

Other Disclosures Note 1 to the financial statements reflects pending accounts payable amounting to Kshs.20,879,640 as disclosed in annex to the financial statements which were not paid in the year under review but were carried forward to 2023/2024 financial year.

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

My opinion is not modified in respect of this matter.

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Other Matter

188. Unresolved Prior Year Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

189. Irregular Payment of Subscription Fees

The statement of receipts and payments reflects use of goods and services amounting to Kshs.392,862,238 which, as disclosed in Note 5 to the financial statements includes other operating expenses amounting to Kshs.48,552,059. The other operating expenses includes an amount of Kshs.750,000 paid as subscription fees to the Society of Clerks-at-the-Table (SOCATT) and Kshs.1,500,000 paid to the County Assemblies Forum (CAF) all totalling Kshs.2,250,000. However, there was no legal basis for the establishment of CAF and SOCAT. The payments are therefore not a proper charge of public resources.

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

190. Compensation of Employees and other Staff Matters

190.1 Irregular Extension of Service for Retired Employees

The County Assembly Service Board extended the services of three (3) officers who had attained the mandatory retirement age of sixty (60) years for a period of one year. It was not clear under what circumstances the services were extended. Further, there was no evidence to show that there were no suitable persons to fill the vacancies.

190.2 Non-Compliance with the Thirty Percent Rule Ethnic Composition of Employees

Review of human resource records revealed that the County Assembly had sixty-five (65) permanent employees out of which sixty (60) or ninety-two (92%) per cent were from the dominant ethnic Community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states 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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191. Irregular Commutation of Leave

During the year under review, the County Assembly paid Kshs.7,108,042 for leave commutation. Review of records revealed that 62 and 61 staff members commuted part or full leave days entitlement for the financial years 2021/2022 and 2022/2023 respectively. Further, commutation of leave was not authorized. This was contrary to Section E.4 of the Human Resource Policies and Procedure Manual for the Public Service 2016, which prohibits commutation of leave for cash except on exceptional circumstances.

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

192. Irregular Payment of Foreign Travel and Subsistence Allowance

The statement of receipts and payments reflects use of goods and services amounting to Kshs.392,862,238 which, as disclosed in Note 5 to the financial statements includes foreign travel and subsistence totalling Kshs.71,156,692. However, review of records revealed that the officers were not issued with imprests while proceeding on foreign countries on official duties. Instead the officers used their money and later claimed for refund. This was contrary to Regulation 93(3) of the Public Finance Management (County Governments) Regulations, 2015.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

193. Lack of Land Ownership Documents

Annex 4 to the financial statements reflects historical cost of non-current assets amounting to Kshs.225,990,450. The amount includes land and buildings and structures amounting to Kshs.19,000,000 and Kshs.89,471,629 respectively. However, land ownership documents such as title deeds or allotment letters were not provided. Further, the building and structures have not been revalued. In addition, inventory of the non-current assets was not provided.

In the circumstances, the effectiveness of the internal controls on asset management in place could not be confirmed.

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COUNTY ASSEMBLY OF KIRINYAGA – NO.20

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

194. Variance Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances

The statement of receipts and payments reflects total payments of Kshs.718,606,854. However, review of the ledger balances in the Integrated Financial Management System (IFMIS) revealed total expenditure of Kshs.728,328,236 resulting to unexplained and unreconciled variance of Kshs.9,721,382.

In the circumstances, the accuracy and completeness of total payments of Kshs.718,606,854 as at 30 June, 2023 could not be confirmed.

Emphasis of Matter

195. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for development vote reflects the final receipts and actual on a comparable basis totalling Kshs.60,417,240 and Kshs.38,417,170 respectively resulting in underfunding of Kshs.22,000,070 (or 36%) 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

196. Unresolved Prior Year Issues

In the audit report of the previous year, various issues were raised under the Report on Financial Statements and under Report on Lawfulness and Effectiveness in Use of Public Resources. However, at the time of the audit review, the Management had not resolved the issues nor given any explanation for the failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

Basis of Conclusion

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

Review of June, 2023 payroll revealed that eleven (11) members of staff were paid net salaries below a third of their basic pay, contrary to the provisions of Section 19(3) of the

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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.

198. Non-Compliance with Ethnic Diversity

Review of records revealed that the total number of employees at the County Assembly during the year ended 30 June, 2023 was eighty-seven (87), out of which eighty-three (83) or 95% were from the local dominant community in the County. 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 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.

199. Non-Compliance with Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects compensation of employees' expenditure balance of Kshs.288,573,277 as disclosed in Note 3 to the financial statements, which is approximately 40% of the total revenue of Kshs.720,052,788. This is 5% above the set limit of 35% contrary to Regulations 25(1)(a) of Public Finance Management (County Governments) Regulations, 2015 which requires that County Executives Committee Members with the approval of the County Assembly shall set a limit on the County Governments expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act. In addition, Regulation 25(1)(b) provides that the limit set under total revenue.

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

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

Conclusion

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

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COUNTY ASSEMBLY OF MURANG'A – NO.21

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

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

The statement of receipts and payments reflects payments totalling Kshs.884,405,908 for the year ended 30 June, 2023. However, the IFMIS reports reflects total payments of Kshs.931,966,963 resulting in an unexplained and unreconciled variance of Kshs.47,561,055.

In the circumstances, the accuracy and completeness of the total payments amount of Kshs.884,405,908 could not be confirmed.

202. Exchequer Releases Received After Year End

The statement of receipts and payments reflects Exchequer releases amount of Kshs.884,406,088 and as disclosed in Note 1 to the financial statements. Included in the balance is late Exchequer release of Kshs.147,262,114 received in the month of July, 2023 but backdated to 30 June, 2023 in the records of the County Assembly, contrary to the International Public Sector Accounting Standards (IPSAS) - 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 Assembly inter alia shall record transactions which take place during a financial year running from the 1 July to 30 June. In addition, 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 be treated as pertaining to the previous financial year.

In the circumstances, the accuracy and completeness of the Exchequer releases amounting to Kshs.884,406,088 could not be confirmed.

203. Unreconciled Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.2,924,685 as disclosed in Note 13A which includes Nil balance in respect to Murang'a County Assembly Development Account held at the Central Bank of Kenya. However, review of the bank reconciliation statements revealed a bank balance of Kshs.635,815 which has not been reconciled or included in the financial statements. Further, review of Board of Survey reports on cash account revealed cash at hand balance of Kshs.1,300 which was not included the financial statements. Further, an un-surrendered imprest amounting to Kshs.105,200 was not disclosed in the financial statements.

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In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.2,924,684 could not be confirmed.

Other Matter

204. Unresolved Prior Year Audit Issues

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 neither resolved the issues nor given explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

205. Non-Remittance of Statutory and Non-Statutory Deductions

The statement of financial assets and liabilities reflects pending staff payables totalling Kshs.22,732,451 as disclosed in Other Important Disclosures, and Annex 2. Review of the schedules supporting the financial statements and related supporting documents revealed the following;

205.1 Un-Remitted Pension Deductions

Pension deductions payable to Local Authorities Provident Fund and Trust Fund (LAPFUND and LAPTRUST) totalling Kshs.3,645,932 were deducted during the year under review but not remitted as at 30 June, 2023. This was contrary to Section 33(1) of the Retirement Benefits Act, 2012 which states that notwithstanding the provisions of any written law for the time being in force, an employer may, with the approval of his employees, pay any statutory contributions in respect of such employees into any Scheme Fund prescribed for that purpose. Further, the non-remittance of the contribution by the employer may attract interest accrued to the scheme and a penalty of five percent of unremitted contributions or twenty thousand shillings whichever is higher.

205.2 Un-Remitted Non-Statutory Deductions

The County Assembly deducted through the payroll system an amount of Kshs.6,510,914 in respect to principal amount recovered from car loan and members mortgage, interest recovered from car loan and members mortgage insurance premium and other membership subscription insurance recovered from members mortgage as at 30 June, 2023. However, the amounts were not remitted promptly as required by the receiving institutions contrary to Regulation 22(2)(a) of the Public Finance Management (County Governments) Regulations, 2015, which provides that in addition to the responsibilities of Accounting Officers provided in the Act, an Accounting Officer designated under the Act or any other Act, shall comply with any tax, levy, duty, pension, commitments as may be provided for by legislation.

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

206. Non-Compliance with the Law on Ethnic Diversity

During the year under review, the County Assembly had ninety-seven (97) employees, out of which eighty-eight (88) or 91% were from of 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 requires 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.

207. Staff Emoluments Paid Outside IPPD Payroll System

The statement of receipts and payments reflects compensation of employees' expenditure totalling Kshs.278,474,079 as disclosed in Note 4 to the financial statements. Included in the expenditure is an amount of Kshs.1,619,394 being seven months emoluments paid during the year in respect of a Member of the County Assembly (MCA) paid through manual payment vouchers outside the Government recommended Integrated Personnel and Payroll Database (IPPD) Management System. This was contrary to The National Treasury Circular No.16/2020 which requires personnel emoluments to be controlled in the public personnel database and supported by IPPD.

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

208. Irregular Payments of Subscription to County Assembly Forums

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects payments totalling Kshs.408,666,471 in respect of use of goods and services. Included in this amount are other operating expenses totalling Kshs.24,727,889 out of which an amount of Kshs.830,000 was paid as subscription fees to the County Assemblies Forum (CAF) and the Society of Clerks-at-The Table (SOCATT). Further, review of pending bills payables revealed an amount of Kshs.20,300,000 payables to County Assembly Forums that has been pending for inordinately long time. However, there is no enabling legislation establishing these bodies nor policies and guidelines enacted by the County Assembly for such payments.

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

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

Conclusion

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

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COUNTY ASSEMBLY OF KIAMBU – NO.22

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

210. Unreconciled and Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects a balance of Kshs.73.65 in respect of cash and cash equivalents as disclosed in Note 13 to the financial statements. However, review of the cash books provided for audit revealed that the opening balances for the recurrent cash book for the months of October, 2022 was an overdraft of Kshs.145,076,591 differed with the previous months closing balance of overdraft of Kshs.134,515,631 resulting to an unreconciled variance of Kshs.10,560,960. Similarly, the opening balance for the month of June, 2023 of Kshs.298,098,817 differed with the closing balance of the previous month Kshs.333,457,201 resulting to an unreconciled variance of Kshs.35,358,384.

Further, the bank reconciliation statement for the month of June, 2023 included unpresented cheques amounting to Kshs.361,908,203 out of which cheques amounting to Kshs.84,202,901 were stale as at 30 June, 2023. No explanation was provided why the stale cheques were not written back to the cash book and no operations accounts bank reconciliation statements and cash books were not provided for audit.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.73.65 could not be confirmed.

211. Unsupported Training Expenditure

The statement of receipts and payments reflects an amount of Kshs.576,937,962 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements includes training expenses amount of Kshs.69,054,914. Review of payment vouchers amounting to Kshs.12,764,730 revealed that various staff attended trainings outside the country. However, the imprest issued and surrendered was not supported with documents such as boarding passes, copies of passports with stamp of entry and exit of the foreign country, attendance registers and travel clearance. Further, review of the payment vouchers, revealed that some imprests issued lacked application by the attendee and authority for the imprest applied. In addition, review of the invoices revealed that the County Assembly made payments for training of participants, but the number of staff who attended the training were less than those indicated in the invoices.

In the circumstances, the completeness of the training expenditure amounting to Kshs.12,764,730 could not be confirmed.

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Emphasis of Matter

212. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development which reflects final approved receipt budget and actual amount on comparable basis amounting to Kshs.1,628,012,830 and Kshs.1,186,374,088 respectively, resulting in under-collection of revenue amounting to Kshs.441,638,742 or 27% of the budget. Similarly, the statement reflects final expenditure budget and actual amount on comparable basis totalling Kshs.1,628,012,830 and Kshs.1,186,374,014 respectively resulting in an under-performance amounting to Kshs.441,638,816 or 27% of the budget.

The under collection and under expenditure have affected the planned activities and negatively impacted on service delivery to the citizens of Kiambu County.

213. Pending Accounts Payable

As disclosed in Note 1 and 2 - Other important disclosures to the financial statements, the County Assembly reported pending bills balances of Kshs.100,381,692 and Kshs.26,206,752 relating to pending accounts payable and pending staff payables respectively out of which pending bills amounting to Kshs.18,386,738 were not supported by payment vouchers and other supporting documents. Further, pending bills totalling Kshs.19,760,646 relate to the financial year 2021/2022. In addition, review of the pending bills documents provided for audit revealed that legal fees amounting to Kshs.11,300,729 which had been recognized as contingent liabilities were not disclosed as pending bills despite each legal case having a fee note raised hence understating the pending bills balance by the same amount.

Failure to settle the bills during the year in which they relate distorts the financial statements and adversely affect 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

214. Unresolved Prior Year Matters

The audit report for the year ended 30 June, 2022 raised several unsatisfactory issues in regard to balances reflected in the financial statements, lawfulness and effectiveness in use of resources and effectiveness of internal controls, risk management and governance. However, the issues remained unresolved as at 30 June, 2023.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

215. Non-Compliance with Fiscal Responsibility on Wage Bill

The statement of receipts and payments and Note 4 to the financial statements reflect compensation of employee's expenditure amounting to Kshs.513,257,415 representing 43% of the total revenue of Kshs.1,186,374,088 which translates to eight percentage points over and above the fiscal guidelines of 35%. Further, Management did not submit for audit the County Executive Committee Member for Finance prescribed threshold of wages and benefits as a percentage of Assemblies revenue to be adhered to towards enforcement of fiscal responsibility principles and the approval of the same by the County Assembly. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulation, 2015 which states that the County Executive Committee Member with the approval of the County Assembly shall set a limit on the County Government's expenditure on wages and benefits for its public officers and the limit shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

216. Delay in Confirmation of Employees

Review of personal files provided for audit revealed that eight (8) employees who were appointed on 28 January, 2022 had not been confirmed in writing as per their appointment letters. No explanation was provided why the employees had not been confirmed despite having completed their probation periods. This was contrary to provisions of the Public Service Commission Human Resource Policies and Procedure Manual May, 2016 which states that the supervisor will make a report on the officer's suitability for confirmation or otherwise at least one (1) month before the end of the probationary period and inform the officer accordingly and where the supervisor fails to submit a report during the probationary period, the officer shall be confirmed in appointment.

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

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

During the year under review, the County Assembly made deductions and or recoveries from several employees more than two thirds of their gross pay. Further, review of the payroll revealed that some employees had negative net pay. This was contrary to Section 19 of the Employment Act, 2007 on deduction of wages which provides that 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 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.

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

218. Non-Compliance with Law on Ethnic Composition

Review of employee records for the County Assembly revealed that the County Assembly had employed a total population of ninety-six (96) staff out of whom eighty (80) employee or 83% were from the dominant ethnic community in the County . This was contrary to the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public officers shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

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

219. Irregular Payments to Society of Clerks at the Table and County Assembly Forum

Review of payment vouchers relating to membership fees, dues and subscriptions to professional and trade bodies revealed that an amount of Kshs.5,448,000 was paid to Society of Clerks at the Table and County Assembly Forum**.** However, the payments were made without budget allocation and requisite in line with 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.

220. Irregular Rental of Ward Offices

The statement of receipts and payments and Note 5 to the financial statements reflects use of goods and services amounting to Kshs.576,937,962 which includes rentals of produced assets amounting to Kshs.18,974,000. During the year under review, the County Assembly rented offices for the Members of the County Assembly. However, it was not possible to confirm if the process of renting the twenty-four (24) ward offices at a monthly rent of Kshs.341,900 was fair and competitive in the absence of the quotation documents from the suppliers, lease agreements, ownership documents and tax compliance certificates.

Further, review of procurement documents provided for audit revealed that various bidders were awarded the contracts for rental of ward offices without the required documents which include tax compliance certificates, tax pin and ownership documents as per the criteria set in the quotation documents. This was contrary to Section 58(2) of the Public Procurement and Asset Disposal Act, 2015 which states that “the tender documents used by a procuring entity under Section 58(1) shall contain sufficient information to allow fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.

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

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221. Idle Assets

Review of the County Assembly operations during the year under review revealed that the County Assembly procured a biometric system in 2017 at a cost of Kshs.1,316,020, for use by the Members of the County Assembly when conducting various planned activities for their respective committees. However, an audit inspection carried out revealed that the system was not in use in the committee rooms. This was contrary to Regulation 139(2) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the Accounting Officer shall ensure that processes and procedures both electronic and manual are in place for the effective, efficient, economical and transparent use of the Government entity's assets.

In the circumstances, value for money on the idle assets could not be confirmed.

222. Irregular Procurement

222.1 Printing and Advertisement Services

During the year under review, the County Assembly procured invoice, delivery and counter receipt vouchers (S13) booklets from a local supplier for Kshs.414,200 who was not among the prequalified suppliers. Further, the County Assembly procured advertising services from a local media company for revenue and expenditure advertisement amounting to Kshs.290,000. However, review of the payment voucher revealed that the Local Service Order was written in favour of a different service provider. This was contrary to Section 114(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that all purchases of goods, works and services from suppliers, including capital investments, shall comply with the provisions prescribed in the Public Procurement and Asset Disposal Act, 2015, and the Regulations made thereunder and shall have the prior approval of the Accounting Officer.

222.2 Irregular Procurement of Office Furniture and Equipment

Review of sampled payment vouchers for supply of orthopaedic seats, desks and cabinets revealed that the office furniture was procured through request for quotations where four (4) local purchase orders totalling Kshs.7,387,720 were awarded to four suppliers. However, the quotations were split for the supply of the listed office furniture to avoid open tender contrary to Section 54(1) of the Public Procurement and Asset Disposal Act, 2015 which states that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed. Further, the distribution lists for the office furniture were not provided for audit.

In addition, two local purchase orders dated 27 March, 2023 and 28 February, 2023 were issued to a local supplier for supply of 26 office tables at Kshs.20,000 each and 26 orthopedic seats at Kshs.39,960 each. However, invoices and delivery notes indicated 27 orthopedic seats and 27 office tables were supplied. No explanation was provided why there was one seat and desk supplied in excess of the local purchase order. This was contrary to Regulation 114(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that all purchases of goods, works and services from suppliers, including capital investments, shall comply with the provisions prescribed in the

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Public Procurement and Asset Disposal Act, 2015, and the Regulations made thereunder and shall have the prior approval of the Accounting Officer.

222.3 Wastage of Public Funds on Office Rent for Members of County Assembly

Review of ward documents provided for audit revealed that the County Assembly entered into a lease agreement with a local company on 1 February, 2023 for office space for Nominated Members of County Assembly (MCAs) in Kiambu town at a cost of Kshs.3,014,237 per quarter. Audit inspection carried out in the month of September, 2023 at the rented premises revealed that only eleven (11) offices were occupied out of the thirty (30) available within the premises. The County Assembly incurred a total amount of Kshs.13,396,608 for rental expenses during the year under review while the offices remaining unoccupied. Further, there was no signage at the entrance of the building to show which floors the Nominated MCAS were occupying for ease of service delivery. This was contrary to Regulation 139(2) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the Accounting Officer shall ensure that processes and procedures both electronic and manual are in place for the effective, efficient, economical, and transparent use of the Government entity's assets.

It was further observed that one Member of the County Assembly had occupied two offices and no explanation was provided for this anomaly. It was noted that the Nominated MCAs have 3 partisan staff each, whose contracts commenced in the month of November, 2022. However, only eleven (11) staff out of the seventy-eight (78) were within the premises at the time of the verification and no records were maintained to show that the absentees reported to work despite incurring an amount of Kshs.12,254,909 in salaries.

222.4 Irregular Contract Variation of Office Partitioning

Review of the procurement documents provided for audit revealed that the procurement for office partitioning was awarded to a local contractor at a contract price of Kshs.3,799,240 on 3 April, 2023. However, the contract duration was not included in the contract. Further, a meeting held by the Contract Implementation Committee on 19 April, 2023 revealed that the contractor requested for a contract variation by Kshs.836,444 (22%) which was approved by the Committee resulting to a new contract price of Kshs.4,633,714. However, the contract variation was done before lapse of one year contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015 which states that, an amendment or a variation to a contract resulting from a procurement proceeding is effective only if no contract price shall be varied upwards within twelve months from the date of the signing of the contract.

222.5 Irregular Procurement of Conference Facilities

Review of procurement documents provided for audit revealed that the County Assembly procured services for provision of conference facilities directly from a local hotel for Kshs.2,100,000 on 24 to 28 October, 2022 for the Members induction. This was despite the County Assembly, having entered into framework contracting for provision of conference facilities. Further, it was noted that the contracted hotel was not prequalified

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or issued with framework contracts for the provision of conference facilities, and the County Assembly provided only a quotation for the supplier indicating the quoted amounts for the services. No explanation or reasons were provided for audit review on the use of direct procurement for the conference facilities and the prior approval in writing by the Accounting Officer for use of the direct procurement method. This was contrary to Section 103(2) of the Public Procurement and Asset Disposal Act, 2015 which states that; a procuring entity may use direct procurement if the goods, works, or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of the goods, works or services, and no reasonable alternative or substitute exists.

222.6 Irregular Award of Guarding Services Contract

During the year under review, the County Assembly incurred an amount of Kshs.2,056,990 on contracted guarding services from a local security firm. Review of the procurement documents provided for audit revealed that the County Assembly used request for quotation to procure the services and the contract was awarded on 1 February, 2021. However, review of the evaluation committee minutes revealed that the preliminary evaluation for the registration of suppliers for the financial year 2022/2023 and 2023/2024 category no: CAK/06/2022-2024 revealed that the awarded security firm did not meet the set criteria and was not among the prequalified suppliers. This was contrary to Section 114(1) of the Public Finance Management (County Governments) Act, 2015 which states that all purchases of goods, works and services from suppliers, including capital investments, shall comply with the provisions prescribed in the Public Procurement and Disposals Act, 2015, and the Regulations made thereunder and shall have the prior approval of the Accounting Officer.

222.7 Non-Compliance with Framework Contracting

Review of procurement documents revealed that the County Assembly entered into framework agreements for the provision of conference facilities, air ticketing services, legal, renovation and landscaping and provision of photocopier repairs. However, review of the prequalified suppliers under the framework contracting revealed that the number of prequalified suppliers did not meet the required threshold of 7 suppliers per each framework contract. This was contrary to Regulation 114(1)(b) of the Public Procurement and Asset Disposal Regulations, 2020 which states that a procuring entity may enter into a framework agreement through open tender which shall specify the number of suppliers or contractors which shall not be less than seven alternative vendors.

222.8 Irregular Proposed Office Renovation Work

The County Assembly Service Board (CAKSB) of Kiambu held a meeting on 12 January, 2023 to approve the request for renovation of Bahati Social Hall in Thika sub-county for use by the Member for Hospital Ward. Review of the procurement files provided for audit revealed that a local contractor was awarded the contract at a contract sum of Kshs.1,195,500 under quotation No.1185811-3-2022/2023. However, the quotation evaluation minutes were not provided for audit and regret letters were not stamped received by the two unsuccessful bidders hence there was no evidence that the letters were sent. Further, the inspection and acceptance report dated 22 June, 2023 approved the works as per payment certificate No 1 of Kshs.1,195,500. However, the completion

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certificate and hand-over reports were not provided for audit. This was contrary to Section 114(1) of the Public Finance Management (County Governments) Regulations, 2015, which states that all purchases of goods, works and services from suppliers, including capital investments, shall comply with the provisions prescribed in the Public Procurement and Asset Disposal Act, 2015, and the Regulations made thereunder and shall have the prior approval of the Accounting Officer.

In the circumstances, Management was in breach of the law and value for money have not been obtained.

223. Legal Expenses

223.1 Wasteful Expenditure in Relation to County Assembly Staff

The County Assembly paid an amount of Kshs.2,558,895 to a local law firm in a case of County Assembly Staff verses the Kiambu County Assembly Service Board. The Court gave a judgement on the matter on 26 September, 2022 where the respondents were condemned to pay a cost of Kshs.874,055. Further, an amount of Kshs.844,295 was paid to a local law firm for another case of County Assembly Staff Vs County Assembly of Kiambu Service Board. The judgement was delivered on 16 December, 2022. It was further noted that Kshs.840,545 was paid to the law firm for a case of County Assembly staff Vs County Assembly of Kiambu Service Board and the Court gave a Judgement on 11 February, 2022.

Review of legal documents provided for audit revealed that the three Ex-Parte applicants were staff of Kiambu County Assembly seconded to Kiambu County Executive whose services were no longer required by the Speaker. However, the staff had been removed from the County Assembly payroll and had their salaries and other accrued benefits withheld without their consent. An order was issued by the Court compelling the Kiambu County Assembly to facilitate the respondent's dues with their previous roles, full salaries, seniority and responsibilities prior to their secondment.

223.2 Wasteful Expenditure in Relation to Motor Vehicle Compensation

Review of legal documents provided for audit revealed that a County Assembly vehicle was involved in an accident with another motor vehicle was repaired at a cost of Kshs.601,040 on 10 March, 2014. It was noted that, the County Assembly had paid premiums with a local insurance company for the County vehicle for the year 2014/2015 which were fully paid under policy No.100/070/1/003874/2014. The local insurance company failed to compensate the complainant when the County Assembly had their pending bill of Kshs.55,000,000 at that moment. The County Assembly ended up paying a local law firm who was the complainant lawyer a cost of Kshs.1,545,727 and the County Assembly lawyer an amount Kshs.370,000. These payments were irregular as the County Assembly should have compelled the contracted local insurance company to compensate the plaintiff since they had paid premiums for the specific County motor vehicle.

In the circumstances, value for money was not realized from the legal costs incurred in relation to the staff and motor vehicle compensation.

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224. Irregularities in Project Implementation

224.1 Incomplete Projects

224.1.1 Construction of Ngoliba Ward Offices

During the year under review, a 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 under tender.no 1187335-2022/2023. Review of the project file revealed that the contractor raised the first certificate of Kshs.2,691,624 which remained outstanding as at 30 June, 2023. 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.

224.1.2 Construction of Ngewa Ward Office

The County Assembly awarded a local contractor the contract for 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 under tender.no 1187295-2022/2023. However, the acceptance letter by the winning bidder and the contract agreement were not provided for audit review. Further, review of the project file revealed that the contractor had raised the first certificate 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 review.

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

224.2 Stalled Projects

224.2.1 Construction of Assembly Archives and Member Welfare Facility

The County Assembly entered into a contract with a local contractor for construction of County Assembly Archives and Members' welfare facility on 28 May, 2021 under tender no 858604-2020/2021. The contractors raised the first certificate of Kshs.9,661,240 during the financial year 2021/2022 which remained outstanding as at 30 June, 2023. Review of the project implementation status report revealed that the project was 25% complete. Further, audit inspection carried out on 28 September, 2023 revealed that the contractor had abandoned the site and the building had stalled.

224.2.2 Construction of Ward Offices at Karai Ward and Bibirioni Ward

The contracts for construction of ward offices at Karai and Bibirioni wards were awarded to a local contractor on 10 February, 2020 at a contract price of Kshs.3,965,016 each for a period of 14 weeks starting 20 March, 2020. The contractor raised the first certificates of Kshs.2,840,106 each in the financial year 2020/2021 which were paid. Review of the

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project implementation status report revealed that the Karai and Bibirioni ward offices projects were 85% complete. However, audit inspection carried out in September, 2023 revealed that the contractor was not on 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.

In the circumstances, the value for money on the expenditure of Kshs.12,501,346 on the stalled projects could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

225. Irregular Drawing of Fuel

Review of records revealed that the County Assembly spent a total amount of Kshs.459,931 to fuel vehicles. However, the fuel cards for each motor vehicle revealed that 2,765.06 litres of petrol at a cost of Kshs.181,612 was drawn for vehicles that consumed diesel while 1,655.18 litres of diesel at a cost of Kshs.278,319 was drawn for vehicles that consumed petrol. Further review of the fuel statements revealed that, one motor vehicle drew fuel amounting to Kshs.49,356 in the year under review despite being grounded. It was observed that one fuel card was used by more than one vehicle, an indication of weak internal control in fuel management. This was contrary to Section 149(1) 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 (a) lawful and authorized; and (b) effective, efficient, economical and transparent. Further, review of work tickets provided for audit revealed that the work tickets summary which include; total distance, miles per liters and miles per oil per litre, and the driver reports of defects were blank. In addition, the fuel consumed did not correspond to the number of kilometers travelled with cases of more fuel was drawn for less kilometers covered as detailed below:

Work Ticket Number	Month	Litres Drawn	Kilometers Travelled	Liters per Kilometer
639757	Jul-23	5380	1680	0.312267658
967084	Nov-22	339.3	38	0.111995284
958006	Feb-23	501.3	180	0.359066427
752204	Sep-22	231	1219	5.277056277
967082	Nov-22	232.94	184	0.789902979
752236	Jul-22	69.99	152	2.17173882

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

226. Poor Management of Stores and Store Records

Audit inspection of the stores carried out in the month of September, 2023 revealed that the store was congested and not arranged and therefore not easy to trace items within, which was contrary to Section 160(1) and (2) of the Public Procurement and Asset

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Disposal Act, 2015. Further, there were no store bin cards to show the balances of store items and a spot check to confirm the balance was not possible. In addition, it was not possible to verify the receipt and issue for goods sampled for store verification amounting to Kshs.6,910,104. Furthermore, there were notable obsolete stock despite the Disposal Committee recommending disposal of the items.

In addition, review of motor vehicle documents revealed that the County Assembly had eight (8) motor vehicles. However, the log books for six (6) motor vehicles were not provided for audit review. Two motor vehicles were grounded, however corresponding inspection reports to ascertain whether it was economical to repair the motor vehicles or recommend for bonding were not provided for audit.

In the circumstances, it was not possible to confirm existence of effective internal controls on motor vehicles and stores management.

227. Failure to Meet Committee Meeting Threshold and Failure to Declare Conflict of Interest

During the year under review, the Audit Committee held only one meeting on 22 July, 2022 to discuss prior year last quarter report as opposed to the minimum four quarterly meetings as per the gazette notice. It was further noted that the position of chairperson of the Audit Committee became vacant due to natural attrition, however the committee did not appoint an acting chairperson to the Audit Committee and the County Assembly had not appointed a chairperson by the time of audit. Further, it was noted that one member of the Audit Committee appointed on 9 November, 2020 for a period 3 years was a spouse of the head of ICT. However, the Audit Committee member did not declare conflict of interest as required by the gazette notice.

In the circumstances, it was not possible to confirm whether the audit committee was effective during the year under review.

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COUNTY ASSEMBLY OF TURKANA – NO.23

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

228. Unsupported Compensation of Employees

The statement of receipts and payments for the year ended 30 June, 2023 reflects compensation of employees amount of Kshs.468,454,468 (2022: Kshs.619,723,205) as disclosed in Note 4 to the financial statements. However, included in the amount of Kshs.468,454,632 was an amount of Kshs.62,375,359 which was not supported by the payroll.

In the circumstance, the accuracy and completeness of the unsupported expenditure on compensation of employees of Kshs.62,375,359 could not be confirmed.

229. Inaccuracies in the Non-Current Assets

As previously reported, the summary of non-current assets register at Annex 4 to the financial statements reflects a balance of Kshs.1,598,953,511 (2021/2022 Kshs.1,526,017,594) which did not include the undetermined value of land and buildings inherited by the County Assembly from the defunct Municipal Council of Turkana. In addition, the County Assembly had not maintained fixed assets' register in the required format and manner. The assets register provided for audit did not have a record of fixed assets such as land, buildings and motor vehicles and did not have information such as the acquisition costs, opening balances at the start of the year, disposals and the closing balances at the end of the year, with others missing serial numbers, models and makes.

Further, there was no evidence that the County Assembly carried out annual physical verification of the assets, matching the recorded assets with physical existence and condition. The management had also not tagged/branded its assets as required under Regulation 132(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, valuation, accuracy and completeness of the non-current assets balance of Kshs.1,598,953,511 could not be confirmed.

230. Inaccuracies of Imprests and Advances

The statement of financial assets and liabilities reflects imprest and advances balance of Kshs.10,835,245 as at 30 June, 2023. However, review of imprest records provided revealed other imprests of Kshs.8,373,500 outstanding in 2020/2021 was not included in the imprest register and the financial statements.

In the circumstances, the accuracy and completeness of imprests and advances balance of Kshs.10,835,245 could not be confirmed.

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231. Unsupported Legal Expenses

Review of IFMIS payment details revealed that three (3) firms were paid legal expenses amounting Kshs.27,357,135. However, 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 unit, notification of awards and acceptance letters, the itemized instructions made to the lawyers on the services required, copies of judgement summaries where applicable, and certificates of costs on which the legal fee notes were based. In addition, there was no opinion and letter of no objection for engagement of private legal firms by either the designated principal legal advisor to the County Assembly or the county attorney who is indicated in the annual report and financial statements as the principal legal advisor.

In the circumstances, the occurrence and propriety of the legal expenses of Kshs.27,357,135 could not be confirmed.

Emphasis of Matter

232. Undisclosed Pending Bills

The pending bills as disclosed in other disclosures (1) reflects an amount of Kshs.95,064,065 which comprised of construction of buildings of Kshs.15,021,665 and supply of goods of Kshs.80,042,400. However, the analysis in annex 1 to the financial statements did not include details of the date of invoice/contract, description of the particulars and movement in the pending balances as required by the reporting standards. Further, review of records maintained by Kenya Revenue Authority indicated that the County Assembly had outstanding taxes amounting Kshs.486,172,760 which had not been disclosed or included in the pending bills.

Failure to settle the bills during the year they relate to distorts the financial statement and adversely affects the budgeting provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of this matter.

Other Matter

233. Failure to Submit/Resolve Prior Year Audit Matters

Recommendations from the oversight legislative committees on the issues raised in the audit report for 2021/2022 and previous financial years were not submitted for audit verification hence the audit could not confirm whether the audit reports were discussed and recommendations implemented. This was contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which requires accounting officers designated for county government entities to try to resolve any issues resulting from an audit that remain outstanding.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

234. Regularity of Imprest Management

Review of records revealed outstanding imprests amounting Kshs.19,208,745. Out of this amount, imprests amounting Kshs.8,373,500 related to 2021/2022 while outstanding imprests of Kshs.10,835,245 were issued during the year under review. The imprests had not been surrendered by the time of audit in September, 2023 contrary to Regulation 93 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 failure to which the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

Further, review of records revealed that nine (9) members of staff of the County Assembly were issued with multiple imprests amounting to Kshs.4,716,900 before surrender of the previous imprests. This was contrary to Regulation 93(8) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management was in breach of law.

235. Irregularities in Purchase of Document Management System

The County Assembly procured a document management system from a vendor at a cost of Kshs.7,957,601 during the year under review. The system was delivered and was in use at the time of audit in August, 2023. However, there was no evidence of contract or agreement between the County Assembly and the vendor stipulating the system specifications and terms of engagement. Further, inspection and acceptance report and warranty for the system were not provided for audit review. This was contrary to Section 48(1) of the Public Procurement and Assets Disposal Act, 2015 which stipulates that an Accounting Officer may appoint an Inspection and Acceptance Committee and Section 48(4) which requires that committee to ensure that all required manuals and documentation has been received.

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

236. Delayed Completion of Projects and Non-Recovery of Liquidated Damages from Contractors

Management awarded contracts to five (5) contractors to undertake construction projects namely; Proposed Construction of Library Block; Construction of Speaker's Guest House, Home Office and Garage; Completion of Speaker's residence; County Assembly Annex Building and Refurbishment of Former Survey Offices and Proposed Administration Block between June, 2016 and July, 2022 at a total contract sum of Kshs.272,726,159 with various commencement and completion dates. However, at the time of audit in August, 2023, the project status of work done was estimated to be between 30% and 90% and

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the five projects were on-going. However, review of the project files revealed that the contract period for all the projects had elapsed for between one (1) and fifty (50) months and no extension had been requested by the contractors.

Further, the contract agreements provided that if a contractor failed to complete the works by the date for practical completion or such extended time, he/she shall pay the employer liquidated damages for the period during which the works shall remain or have remained incomplete. However, the County Assembly had not recovered any liquidated damages accrued from the contractors as at the time of audit in August, 2023.

In addition, the County Assembly contracted a private consultant as the project manager for the five projects. However, the signed contract with the projects' consultant (Project Manager) for Proposed Construction of Speaker's Guest House, Home Office and Garage was not provided for audit verification. This was contrary to Section 135(1) of the Public Procurement and Asset Disposal Act, 2015 which states that the existence of a contract shall be confirmed through the signature of a contract document incorporating all agreements between the parties and such contract shall be signed by the accounting officer or an officer authorized in writing by the accounting officer of the procuring entity and the successful tenderer. In addition, the County Assembly had not appointed a project implementation team to oversight each of the five projects and ensure implementation of contracts was in accordance with the terms and conditions of the contracts and a clerk of works to help in project supervision.

In the circumstances, Management was in breach of the law and value for money derived from the expenditure on the delayed projects could not be confirmed.

237. Irregularities in the Construction of Speaker's Residence

The County Assembly entered into a contract for construction of the Speaker's residence on 11 July, 2016 at an unclear contract sum indicated as "Kshs.75,016,755,63.9/= in figures and seventy million and sixteen thousand, seven hundred and fifty-five hundred and sixty-eight shillings" in words. No clarification or corrective documentation was provided to confirm the actual contract sum. The works were to commence on 11 August, 2016 and complete on 11 August, 2019. The contract period lapsed after the contractor had been paid an undetermined amount of money and a new contract was entered into for completion of the residence at a contract sum of Kshs.29,910,000. Another contract for Proposed Construction of Speaker's Guest House, Home Office and Garage was also entered into a contract sum of Kshs.19,930,500.

The contract cost for the two projects at the Speakers residence was therefore cumulatively above the authorized limit of Kshs.35 million provided for by the Salaries and Remuneration Commission.

In the circumstances, the regulating of the expenditure of Kshs.19,930,500 in respect of the Speaker's residence could not be confirmed.

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238. Projects Implementation Status

During the audit in August to September, 2023, six (6) projects with total contract sum of Kshs.494,994,127 were inspected. One (1) project with a contract sum of Kshs.222,267,968 was found to be complete but not in use and five (5) projects with a total contract sum of Kshs.272,726,159 were partially done.

In the circumstances, there was no value for money derived from the idle and incomplete projects.

239. Regularity of Human Resource Management Practices

239.1 Lack of Approved Staff Establishment

The County Assembly recruited sixteen (16) new staff without an approved staff establishment to guide on the number and cadres of staff authorized that could have resulted in over-employment or filling of positions not necessary thus increasing expenditure on personnel emoluments. Management has not explained the basis of the recruitment contrary to Section B. 5 (2) of the County Public Service Human Resource Manual, 2013 which requires that all vacancies must be declared in a prescribed format which must include: the number of vacancies; when the vacancy occurred; whether the vacancy is within the authorized establishment and other relevant details.

239.2 Non-Compliance with the Law on Ethnic and Regional Distribution

Analysis of the Integrated Personnel and Payroll Database (IPPD) and other human resource records verification revealed that 96.4% of the County Assembly staff are from one dominant community 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 the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community. Further, out of the sixteen (16) new staff recruited during the year, fifteen (15) or 94% were from the dominant ethnic community.

239.3 Non-Adherence to One Third Basic Salary Rule

Review of Integrated Personnel and Payroll Database (IPPD) payroll provided revealed that in the months of July, 2022, January, 2023 and June, 2023, seven (7), five (5) and four (4) officers respectively were drawing net salary of less than a third of their respective basic salaries in contravention of Section 19(3) of the Employment Act, 2007 which states that deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds.

239.4 Non-Compliance with Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects an expenditure of Kshs.468,454,468 on compensation of employees which represents 46% of the total receipts of Kshs.1,019,841,530. This was contrary to the provisions of Regulation 25(i)(a) of the

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Public Finance Management (County Governments) Regulations, 2015 which provides that expenditure on wages and benefits should not exceed 35% of the total revenue.

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

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

Basis for Conclusion

240. Failure to Constitute Audit Committee

The County Assembly of Turkana was yet to constitute an audit committee as at 30 June, 2023, contrary to the provisions of Regulation 167(1) and (2) of the Public Finance Management (County Governments) Regulations, 2015 which requires every County Government entity to establish an audit committee. As a result, the County Assembly did not benefit from the assurance and advisory services of the Audit Committee.

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

241. Weak Internal Audit Function

The County Assembly has an internal audit function for reviewing the governance mechanisms and operations of the County Assembly for transparency and accountability with regard to the finances and assets of the entity as required by Section 155 of the Public Finance Management Act, 2012. However, there were no internal audit reports on the state of risk management, control and governance within the County Assembly and there was no approved internal audit workplan for the year.

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

242. Lack of Risk Management Policy

The County Assembly has not developed a risk management policy and risk assessments were not performed for the year ended 30 June, 2023 contrary to Regulation 158(1) and 163(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires each county government entity to develop risk management strategies and a system of risk management.

In the circumstance, there was no assurance over risk management and governance in the County Assembly.

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COUNTY ASSEMBLY OF WEST POKOT – NO.24

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

243. Unreconciled Variance Between the Payroll and Financial Statement Amounts

The statement of receipts and payments reflects compensation of employees of Kshs.305,815,877 (2022: Kshs.346,626,218) as disclosed in Note 2 to the financial statements. However, the amount differed with the gross payroll amount of Kshs.266,341,917 resulting in unexplained variances as analyzed below:

Description	Financial Statement Amount (Kshs.)	IPPD Payroll Amount (Kshs.)	Variance (Kshs.)
Basic salaries of permanent employees	241,516,417	103,680,948	137,835,469
Basic wages of temporary employees	18,041,034	15,283,104	2,757,930
Personal allowances paid as part of salary - Sittings (MCA and CASB)	13,712,328	133,887,974	(120,175,646)
Pension and other social security contributions	0	13,489,892	(13,489,892)
Other personnel payments	32,546,098	0	32,546,098
	305,815,877	**266,341,918**	

In the circumstances, the accuracy and completeness of the compensation of employees of Kshs.305,815,877, could not be confirmed.

244. Unsupported Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets of Kshs.47,535,130 as disclosed in Note 7 to the financial statements. However, supporting schedules for payments amounting to Kshs.40,089,130 was not availed for audit verification.

In the circumstances, the accuracy and completeness of acquisition of assets amounting to Kshs.40,089,130 could not confirmed.

245. Unconfirmed Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents of Kshs.40,675,951 comprising of deposits and retention account as indicated in Note 8A to the financial statements. However, the bank account number, bank statement and bank

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reconciliation statements were not provided for audit. Further, the statement of cashflow indicates that the cash and cash equivalents as at the end of the year was nil resulting to unexplained variance of Kshs.40,675,951. In addition, the same amount was omitted as a balance in the net financial position to the statement of financial assets and liabilities.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.40,675,951 could not be confirmed.

Emphasis of Matter

246. Pending Bills

Annex 1 to the financial statements reflects pending accounts payable of Kshs.48,635,092 out of which Kshs.1,664,332 is in respect of the financial period 2021/2022 and earlier years. These bills ought to have been paid as a first charge on the budget of the County Assembly in the proceeding years. In addition, a review of the pending bills details provided for audit revealed that pending bills amounting to Kshs.15,805,505 were not supported by the appropriate authority and documentation.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

247. Unsupported Staff Recruitments

Review of the Integrated Personnel and Payroll Database (IPPD's) compliment data revealed that the County recruitment of one hundred and forty-two (142) additional members of staff during the year. However, the recruitment was not supported with any evidence of declaration of all vacant posts in the prescribed format as provided in Section B.5(1) and (2) of the County Assembly Human Resource Manual, 2015, that on reporting of vacancies, an authorized officer must declare all vacant posts to the County Assembly Service Board 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. Further, the County Assembly had no operational staff establishment instrument to support the recruitment.

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

248. Issuance of Multiple Imprest

Examination of imprest warrants and analysis of payment details revealed that the seven (7) staff were issued with multiple imprests contrary to contrary to Section 93(8) of the Public Finance Management (County Governments) Regulations, 2015 which requires that an accounting officer or AIE Holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary. In the circumstances, Management was in breach of the law.

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249. Non-Compliance with one Third Ethnic Composition

Review of the Integrated Personnel and Payroll Database data for the financial year revealed that out of 374 employees, 351 are from the dominant ethnic community making approximately 94% of the staff. 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.

250. Late Remittance of Statutory Deductions

Review of payroll bank remittance reports and Internet Banking (IB) statements in respect of statutory deductions revealed instances of late remittance of PAYE and NHIF deductions as analyzed below:

S/NO	Particulars	Amount (Kshs.)	Date Deposited
1	PAYE for July, 2022	4,285,235	07 Sept, 2022
2	PAYE for September, 2022	2,126,220	24 Oct, 2022
3	PAYE for October, 2022	4,109,481	16 Nov, 2022
4	NHIF for July, 2022	283,250	02 Sept, 2022
5	NHIF for Sept, 2022	155,950	24 Oct, 2022
6	NHIF for Oct, 2022	196,300	16 Nov, 2022
7	NHIF for Feb, 2023	205,000	13 March, 2023
8	NHIF for May, 2023	389,050	12 Jun, 2023

Part III of Employer's guide to PAYE in Kenya, 2017 provides that remittance of the PAYE tax should be on or before the ninth day of the following month whereas Section 16 (3) (a) of the National Hospital Insurance Fund Act, 1998 requires remittance of deductions within one month of the deduction.

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

251. Irregular Legal Expenses

The County Assembly incurred an amount of Kshs.16,827,587 in respect of legal fees which were pending bills. The pending bills arose from prior years' engagements in five (5) litigations with an aggregated fee note demands of Kshs.32,000,000.

However, the following audit issues were noted:

i) Legal fees for each of the five (5) cases were charged at rates ranging between Kshs.5,000,000 to Kshs.8,000,000. However, there was no evidence that the legal fees were arrived at as per the Advocates Remuneration (amendment) Order, 2014.

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ii) The Management opted to outsource legal presentation when it had a fully-fledged legal function with a team of two competent legal practitioners.

iii) Cases referenced: Eldoret ELRC Petition No. 21 of 2020 and Eldoret ELRC Petition No. 23 of 2020 with fee notes valued at Kshs.7,000,000 each were filed at the labour relations court challenging the County Assembly Public Service Board specific decisions on human resource management which were made without seeking the opinion of the County Assembly's legal officers.

In the circumstances, the propriety and value for money of the expenditure on legal could not be confirmed.

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

Basis for Conclusion

252. Weak Information Technology Internal Control Environment

Review of the Information Technology Internal Controls revealed that Management had not developed an IT continuity and disaster recovery plan which would be resorted to in case of disruption of service. Besides, the County Assembly did not have an approved IT strategic committee and strategic plan which is 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.

253. Lack of Occupational Safety and Health Policy

The County Assembly did not have an approved Occupational Safety and Health Policy, an Occupational Safety and Health Committee at the workplace contrary to Section 9(1) of the Occupational Safety and Health Act, 2007 which requires every occupier to establish a safety committee at the workplace in accordance with regulations prescribed by the Minister and also Section 11(1) that states that the occupier of a workplace shall cause a thorough safety and health audit of his workplace to be carried out at least once in every period of twelve months by a safety and health advisor.

In the circumstances, the effectiveness of the occupational safety and health procedures put in place by the County Assembly staff could not be confirmed.

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COUNTY ASSEMBLY OF SAMBURU – NO.25

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

254. Unconfirmed Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government entities amount of Kshs.18,800,000 which, as disclosed in Note 7 to the financial statements relates to transfers to Car Loan Scheme Fund. However, the financial statements of Samburu County Assembly Mortgage and Car Loan Scheme Fund did not reflect the receipts of the Kshs.18,800,000 from the County Assembly.

In the circumstance, the accuracy and completeness of the transfers to other Government entities of Kshs.18,800,000 could not be confirmed.

255. Misclassified Expenditure

The statement of receipts and payments reflects total payments of Kshs.664,144,352. However, analysis of expenditure records revealed misclassified expenditure amounting to Kshs.20,218,801 as shown in the table below:

Account Charged	Correct Account	Amount Kshs.
Personal allowances paid as Part of Salary	Domestic Travel and Subsistence	13,329,964
Motor Vehicle repairs and maintenance	Rentals of Produced Assets	1,082,490
Motor Vehicle repairs and maintenance	Purchase of Office Furniture and General Equipment	254,880
Motor Vehicle repairs and maintenance	General Withholding Tax	506,707
Motor Vehicle repairs and maintenance	Fuel, oil and Lubricants	796,400
Motor Vehicle repairs and maintenance	Communication, Supplies and Services	287,500
Refurbishment of Buildings	Purchase of Office Furniture and General Equipment	612,740
Foreign travel	Other operating expenses	56,920
Foreign travel	Domestic Travel and Subsistence	2,929,870
Foreign travel	Specialized supplies and services	126,330
Office Furniture	Domestic Travel and Subsistence	165,000

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Account Charged	Correct Account	Amount Kshs.
Specialized Plant	Office and General Supplies and Services	27,000
Specialized Plant	Domestic Travel and Subsistence	43,000
Total		**20,218,801**

In the circumstances, the accuracy and completeness of payments amounting to Kshs.20,218,801 could not be confirmed.

256. Inaccuracies in the Statement of Cash Flows

The statement of cash flows reflects Nil balance under increase /(decrease) in accounts payables while Note 19 reflects a decrease in third party deposits and retentions amount of Kshs.24,087,216.

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

257. Inaccuracies in Non-Current Assets

Annexure 4 to the financial statements reflects summary of non-current assets balance of Kshs.741,933,723. However, the asset register reflects a balance of Kshs.475,489,601 resulting to unexplained variance of Kshs.266,444,122. Further, assets acquired during the year amounting Kshs.6,165,160 were not included in the asset register.

In the circumstances, the accuracy and completeness of the non-current assets balance of Ksh.741,933,723 could not be confirmed.

258. Unsupported Bank Balances and Deposits

Note 13A to the financial statements reflects bank balances of Kshs.47,714. However, bank reconciliation statements and cashbooks were not provided for audit review.

Further, the statement of assets and liabilities as disclosed in Note 15 to the financial statements reflects third party deposits and retentions balance of Kshs.12,886,034. However, no records of outstanding deposits and retentions payable and aging analysis were provided for audit review.

In the circumstances, the accuracy and completeness of third-party deposits and retention balance of Kshs.47,714 and Kshs.12,886,034 respectively could not be confirmed.

259. Un-Supported Expenditure

Note 5 to the financial statements reflects use of goods and services expenditure of Kshs.219,017,609 out of which an amount of Kshs.13, 800,000 was spent on foreign travel. Included in this component is an imprest of Kshs.1, 524,028 paid to two officers for training in Dubai which was not supported by travel and training documents.

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In the circumstances, the accuracy and completeness of foreign travel expenditure amounting to Kshs.1,524,028 could not be confirmed.

Other Matter

260. Unresolved Prior Year Matters

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 Controls, Risk management and Governance. However, the Management had not resolved the issues or given any explanations for failure to implement the recommendations.

REPORT ON LAWFULESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

261. Non-Compliance with the One-Third Rule on Salary

Review of payroll records revealed that thirteen (13) employees earned a net salary of less than a third (1/3) of the 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- thirds (2/3) of such wages.

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

262. Overpayment of Benefits

Review of County Assembly Service Board (CASB) records revealed that two officers drew extra benefits of Kshs.20,000 each for the months of January, 2023 to June, 2023 totalling Kshs.240,000. This was contrary to Salaries and Remuneration Commission (SRC) Circular Ref: No. SRC/TS/CGORT/3/6/VOL.IV (49) which recommends the remuneration package.

In the circumstances, value for money on extra benefits of Kshs.240,000 paid to County Assembly Service Board officers could not be confirmed.

263. Non-Compliance with Law on Staff Ethnic Composition

As previously reported, the total number of employees of the County Assembly were seventy-four (74) out of whom sixty-three (63) or 85 % of the total number were members of 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 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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264. Unauthorized Payments of Subscription Fees

Note 5 to the financial statements reflects other operating expenses of Kshs.19,606,695 which includes Kshs.750,000 paid to Society of Clerks -At-The Table (SOCATT) and Kshs.5,139,655 paid to County Assembles Forum (CAF) as annual subscription fees. However, these bodies do not draw their mandate from the Constitution Kenya, 2010 or an Act of Parliament and the payments were not factored in the 2022/2023 approved budget.

This was contrary to Regulation 105(1) of the Public Finance Management (County Governments) Regulation, 2015 which states that an Accounting Officer may authorize payment vouchers provided such expenditure is in respect of and within the provision of the services in a County Treasury warrant and in accordance with the law and regulations.

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

265. Unauthorized Over Expenditure on Construction of the Speakers Residence

The Management entered into a contract for construction of the Speakers' residence on 14 January, 2022 at a contract sum of Kshs.33,934,103 which was varied to Kshs.42,385,323. This resulted to the contract sum exceeding the Kshs.35,000,000 ceiling set by the Salaries and Remuneration Commission through circular referenced SRC/TS/COG/6/61/48 VOL.II (64) of 20 May 2019 by an amount of Kshs.7,385,323.

As at 13 April, 2023, an amount of Ksh.41,685,322.6 had been paid to the contractor for the works. However, documents to confirm the approval of the over expenditure on Speakers residence by the Senate were not provided for audit. Further, the deadline of 30 June, 2022 for the completion of the residence had lapsed.

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

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

Basis for Conclusion

266. Understaffing of Internal Audit Department

The organization structure provided for the position of an internal auditor and an assistant internal auditor but the department had only one member of staff, an assistant internal auditor.

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

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COUNTY ASSEMBLY OF TRANS NZOIA – NO.26

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

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

Emphasis of Matter

268. Pending Bills

Annex 1 Other Disclosure reflects pending accounts payables of Kshs.468,550; other pending payables of Kshs.29,330,247 and pending staff payables of Kshs.5,626,288 account totalling Kshs.35,425,085. However, records maintained by Kenya Revenue Authority (KRA) revealed outstanding taxes amounting to Kshs.216,548,161 while the County Assembly disclosed only Kshs.9,942,363 as the pending bill to KRA. Further, pending bills amounting to Kshs.13,659,861 relating to financial years 2021/2022 and earlier years had not been settled. No reasons were provided for failure to treat the amounts as a first charge on the proceeding budgets as required by law.

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

269. Unsupported Legal Expenses

The expenditure on use of goods and services includes legal expenses amounting to Kshs.1,041,000 paid to three (3) legal firms. However, the amount was not supported by user requisitions, evidence of competitive bidding from prequalified legal firms, professional opinions from the head of procurement unit, notification of awards and acceptance letters, the itemized instructions made to the lawyers on the services required, copies of judgements summaries, and certificates of costs on which the legal fee notes were based. Further, there was no opinion and letter of no objection for engagement of private legal firms by either the County Attorney or the designated principal legal advisor to the County Assembly.

In the circumstances, the regularity of the expenditure on legal services of Kshs.1,041,000 could not be confirmed.

270. Irregular Subscription Fees

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.343,735, 356 as disclosed in Note 3 to the financial statements. Included in this expenditure is other operating expenses of Kshs.20,847,294 out of which Kshs.800,000

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was paid to Society of Clerks and County Assemblies Forum. However, the basis of the payments was not stated and supported by the enabling legislation that created the Society of Clerks and County Assemblies Forum for them to receive public funds. This contravenes Section 149(1)(a) of the 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 authorised.

In the circumstances, Management was in breach of law.

271. Proposed Construction of Administration Building and Assembly Chambers

The County Assembly engaged a contractor for the proposed construction of Administration Building and County Assembly Chambers at a contract sum of Kshs.477,657,860. The contract was signed on 18 January, 2021 for a contract period of eighteen (18) months. The following unsatisfactory matters were noted:

271.1 Irregular Termination of Contract

The contractor requested for an extension of time on 7 June, 2022 for execution of works from 28 July, 2022 to 30 May, 2023 after carrying out works valued at Kshs.39,231,347. However, the request was declined by the County Assembly on 15 June, 2022 citing lack of execution of work for six (6) months up to June, 2022 and lack of capacity. The contract was subsequently terminated on 22 July, 2022 where the final account for contract termination was drawn and signed by all parties responsible.

However, termination of the contract was not supported with a request for approval to terminate the contract from the procurement department to the accounting officer and subsequent approval by the accounting officer clearly stating the reasons for termination, the contractual grounds for termination and the cost of terminating the contract, contract document specifying the grounds on which the contract was terminated and specifying the procedures applicable on termination and evidence that the County Assembly sought legal advice or clearance from the County Attorney or such person designated in writing before terminating a contract. This was contrary to Regulation 141 of the Public Procurement and Disposal Regulations, 2020.

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

271.2 Irregular Contract Management

After the contract was terminated, the County Assembly retendered the works at a cost of Kshs.464,359,150 for thirty-seven (37) weeks from 20 March, 2023 resulting to combined contract sum of Kshs.503,590,497 that included Kshs.39,231,347 incurred on the initial contract, resulting to avoidable cost escalation of Kshs.25,932,637.

Further, the private consultant for the project was retained without clear terms on how they were to be remunerated given the extended project period. Further, no justification was provided for the use of a consultant to design and supervise the project instead of the County Public Works Department or the State Department for Public Works. The

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consultants had been engaged since 2018 for which they were paid Kshs.22,553,399 during the year under review.

In the circumstances, timely completion of the project is uncertain and to value for money obtained from resources utilized in this project could not be confirmed.

272. Human Resource Management

272.1 Lack of Approved Staff Establishment

During the year under review, the County Assembly did not have an approved staff establishment in place to guide on the number of staff and the cadres authorized. It was therefore not clear the basis on which recruitments were made contrary to Section B. 5 (2) of the County Public Service Human Resource Manual, 2013 which requires that all vacancies must be declared in a prescribed format which must include: the number of vacancies; when the vacancy occurred; whether the vacancy is within the authorized establishment and other relevant details.

272.2 Variances Between Staff Establishment and Actual Number of Employees

Review of the Integrated Personnel and Payroll Database (IPPD) staff generated staff establishment revealed excess staff in posts from the authorized positions as detailed below;

Pay Group	Code	Description	Authorized Posts	In-Posts	Variance/Over-Establishment
BA	C01AN	Principal Administration Officer	1	2	1
BA	D02EK	Statistical Officer [2]	0	1	1
BA	E01BR	Deputy Chief State Counsel	0	1	1
BA	U01AK	Principal Driver	0	1	1

272.3 Non-Compliance with Ethnic and Regional Distribution

Review of payroll and human resource records revealed that the County Assembly has fifty-two (52%) of its employees from the one dominant community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

272.4 Non-Adherence to One Third Basic Salary Requirement

Review of the Integrated Personnel Payroll Database (IPPD) revealed that thirteen (13) members of staff were drawing net salaries of less than a third of their basic salary. This was contrary to Section C.1(3) of Human Resource Policies and Procedures Manual for the Public Service (2016), which provides that public officers shall not over commit their salaries beyond two thirds (2/3) of basic salary.

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

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

Basis for Conclusion

273. Unconfirmed Assets Inherited from Defunct Municipal Council

Annex 3 to the financial statements under other important disclosures reflects summary of non-current asset register historical cost of Kshs.388,949,701. However, this balance excludes the value of land and buildings inherited from the defunct Municipal Council for which no handover was done indicating the assets, their values, ownership status and use. Further, the summary of fixed assets register was not supported by an updated fixed asset register to show category of assets and the historical cost breakdown.

In the circumstances, the existence, valuation, ownership and effectiveness in use of the assets inherited from the defunct local authorities could not be confirmed.

274. Ineffective Internal Audit Function

Although the County Assembly has an internal audit unit, there was no evidence in form of a report to confirm that, the unit reviewed and evaluated budgetary performance, financial management, non-financial performance, risk management and processes in the County Assembly.

Further, review of the risk management records revealed that the County Assembly had not developed a Risk Management Policy and no risk assessment was performed during the year.

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

275. Staff Members Sharing Bank Account Numbers

Review of payroll for the year under review revealed that, seventy-seven (77) members of staff shared the same Sacco account number which was not a joint account.

In the circumstances, the regularity of salary payments into the shared account could not be confirmed.

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COUNTY ASSEMBLY OF UASIN GISHU – NO.27

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

276. Variance Between Financial Statements and IFMIS Reports

The statement of receipts and payments reflects balances which significantly differed with the balances from the Integrated Financial Management Information System (IFMIS) ledger as detailed below:

Receipts	Financial Statements Amounts (Kshs.)	Amounts in IFMIS Reports (Kshs.)	Variance (Kshs.)
Transfers from the County Treasury/Exchequer Releases	942,000,494	-	942,000,494
Payments			
Compensation of Employees	339,925,460	338,689,156	1,236,305
Use of Goods and Services	322,037,098	340,373,568	(18,336,470)
Social Security Benefits	36,000,000	2,869,415	33,130,585
Acquisition of Assets	43,976,717	237,919,717	(193,943,000)
Finance Costs	55,000	-	55,000
Finance Costs, including Loan Interest	-	5,000	(5,000)
Other Payments	200,000,000	-	200,000,000

No explanation was provided by Management for the variances between the two sets of records.

In the circumstances, the accuracy and completeness of the respective balances in the statement of receipts and payments could not be confirmed.

277. Unsupported Training Expenses

The statement of receipts and payments and Note 4 to the financial statements reflect use of goods and services balance of Kshs.322,037,098 which includes training expenses amount of Kshs.34,860,000 . However, review of payment vouchers and supporting documentation provided revealed that an amount of Kshs.3,528,322 was not supported with sufficient surrender documents such as training needs assessments, approvals for the trainings, attendance registers and certificates. Further, temporary imprests were paid into the officers' personal bank accounts but the imprest warrants were not signed by the imprest holders to acknowledge receipt of the imprests and some were paid to merchants. This was contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015, which states that all receipts and payments of public

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moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

In the circumstances, the accuracy and completeness of training expenses amount of Kshs.34,860,000 could not be confirmed.

Emphasis of Matter

278. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.1,214,536,574 and Kshs.942,000,494 respectively resulting to an under-funding of Kshs.272,536,080 or 22% of the budget. Similarly, the County Assembly expended Kshs.941,994,275 against an approved budget of Kshs.1,214,536,574 resulting to an under-expenditure of Kshs.272,542,299 or 22% of the budget.

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

279. Pending Accounts Payables

Note 1 of other important disclosures to the financial statements reflects pending accounts payable balance of Kshs.36,547,608 which includes balances of Kshs.10,541,529 and Kshs.26,006,079 in respect of balances brought forward and additions for the year respectively. 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 matters.

Other Matter

280. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues nor given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

281. Non-Compliance with Law on One-Third of Basic Salary Rule

Review of the payroll for the year under review revealed that thirty-five (35) employees earned a net salary of less than a third of the basic pay contrary to Section 19(3) of the

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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.

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

The County Assembly Board did not submit its financial statements for the year under review to the Auditor-General. As previously reported, the Board has not prepared nor submitted its financial statements since its inception for audit 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.

283. Non-Compliance with the Law on Ethnic Diversity

Review of personnel records for the year under review indicated that the County Assembly had two hundred and thirty-eight (238) members of staff as at 30 June, 2023, out whom two hundred and eighteen (218) or approximately 92% were from the dominant ethnic community in the County. In addition, the County Assembly Service Board (CASB) recruited a total of thirteen (13) employees all of whom are from one dominant community contrary to 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 thirty (30) percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

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

284. Payment of Salary Outside Integrated Personnel and Payroll Database (IPPD)

The statement of receipts and payments reflects compensation of employees' a balance of Kshs.339,925,460 which include an amount of Kshs.88,768,428 paid to three Members of County Assembly (MCAs), forty-four (44) personal assistants to the MCAs, ninety (90) liaison officers based in ward offices and four (4) office assistants to the Speaker of the County Assembly outside IPPD. No explanation has been provided for the processing of the wages outside the IPPD system. This was contrary to Section 1.5.1 of the 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.

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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

285. Failure to Establish an Audit Committee

The County Assembly did not have in place an Audit Committee to oversight the operations during the year contrary to Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides for the establishment of an Audit Committee. This also affects the independence of the Internal Audit function as provided for under Regulation 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Head of Internal Audit Unit in a County Government entity shall enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

In the circumstances, existence of good governance in the County Assembly could not be confirmed.

286. Lack of Risk Management Policy

During the period under review, Management did not have in place a risk 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 risks to operations of the County Assembly may not be identified, their significance estimated, likelihood of occurrence determined and mitigation measures put in place to contain their possible effects.

287. Failure to Establish Performance Management Steering Committee and Staff Advisory Committee

Review of the County Assembly Service Board records indicate that the Staff Advisory Committee and Performance Management Steering Committee are not in place. No explanation has been provided by management for failure to constitute the two committees.

This was contrary to Section A.4 of County Assembly Human Resource Manual, 2015 which provides that there will be three (3) Committees set up to aid in the management of employees' issues. These include the Performance Management Steering Committee which will offer support in Performance Management functions within the County Assemblies. In addition, it was contrary to Section 29 of the County Assembly Service Act, 2017 which states that the Board shall establish a committee to be known as the

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Staff Advisory Committee which shall be responsible for advising the Board, through the Committee, on matters relating to staff.

In the absence of the staff advisory and performance management steering committees, matters pertaining to staff and performance of the County Assembly may not be managed effectively.

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COUNTY ASSEMBLY OF ELGEYO/MARAKWET– NO.28

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

288. Variance Between Financial Statements and IFMIS Reports

The statement of receipts and payments reflects total revenue and expenditure of Kshs.715,385,935 and Kshs.714,911,014, respectively for the year ended 30 June, 2023. However, the balances differed with the Integrated Financial Management Information System (IFMIS) ledger balances as detailed below:

Receipts	Financial Statements Amounts (Kshs.)	Amounts in IFMIS Reports (Kshs.)	Variances (Kshs.)
Transfers from the County Treasury/Exchequer Releases	715,385,935	4,867,479	710,518,456
Payments			
Use of Goods and Services	325,529,172	263,677,351	61,851,821
Transfer to Other Government Entity	94,000,000	-	94,000,000
Acquisition of Assets	26,855,563	182,705,563	(155,850,000)
Finance Costs, including Loan Interest	-	1,821	(1,821)

No explanation was provided by Management for the variances between the two sets of records.

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

289. Irregular Payment of Allowances to Administration Police Service Officers

The statement of receipts and payments reflects an amount of Kshs.247,558,046 in respect of compensation of employees as disclosed in Note 4 to the financial statements. This expenditure includes an amount of Kshs.1,461,000 being extraneous allowances and PAYE deductions paid to administration police officers attached to the County Assembly premises. However, the expenditure incurred was not an approved vote in the annual budget but the police officers were even paid extra allowances for undertaking their primary duties of safe guarding government property and vital installations. Further, the extraneous allowances were paid directly to the personal account of the police officers instead of The National Treasury contrary to Section 104(3) of National Police Service Act, 2011 which requires that the money paid for the private use of police as specified in Sub Section (1) shall be paid to The National Treasury.

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In the circumstances, the regularity and value for money for the compensation of employees amounting to Kshs.1,461,000 could not be confirmed.

Emphasis of Matter

290. Late Transfers from the County Revenue Fund (CRF)

The statement of receipts and payments reflects transfers from the County Revenue Fund amount of Kshs.715,385,935 as disclosed in Note 1 to the financial statements. Included in this amount is Kshs.33,939,411 transferred from the County Revenue Fund into the County Assembly bank account on 6 July, 2023.

In the circumstances, the late disbursement from the County Revenue Fund may have affected the timely implementation of approved programmes in the County and impacted negatively on service delivery to the public.

Other Matter

291. Unresolved Prior Year Issues

In the audit report of the prior year, under the report of financial statements and Report on Lawfulness, Effectiveness in use of Public Resources and the report on Internal Controls, Risk Management and Governance several issues were raised. However, the Management had not resolved the issues or given any explanation for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

292. Non-Compliance with Law on Ethnic Composition

During the year under review, the County Assembly had two hundred and eight (208) permanent employees out of whom two hundred and four (204) or 98% were from the dominant ethnic community in the County. Further, one hundred and thirty-four (134) employees were recruited during the year all of whom (100%) were from the dominant community. 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 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.

293. Non-Compliance with One Third Rule on Basic Pay

During the financial year, thirteen (13) employees earned net pay of less than a third of their basic salary. This was contrary to Part D (2) of County Human Resource Manual,

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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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

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

The statement of receipts and payments reflects compensation of employees' amount of Kshs.247,558,046 and as disclosed in Note 4 to the financial statements which include salaries amounting to Kshs.42,262,834 paid outside IPPD. No explanation has been provided for the processing of the wages outside the IPPD system.

In the circumstances, the existence of an effective control in respect of payment of compensation of employees could not be confirmed.

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COUNTY ASSEMBLY OF NANDI – NO.29

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

295. Unsupported Use of Goods and Services Amount

The statement of receipts and payments reflects use of goods and services balance of Kshs.244,309,354 which, as disclosed in Note 5 to the financial statements includes foreign travel and subsistence allowances amount of Kshs.36,930,966. Examination of payment vouchers and supporting documents revealed that an amount of Kshs.23,237,776 was paid as per diem to Members of County Assembly and the secretariat for a benchmarking trip to Uganda, which were not supported by concept notes and 3 months' notice in line with Sections i(a) and (b) of the Office of the President circular No. OP/CAB.1/7A dated 26 January, 2015 which states that all official international visits be coordinated through the Ministry of Foreign Affairs and International Trade with at least three months' notice/window from the date of request and to hasten the process, all requests should be accompanied by a concept note, name of leader of the delegation and his/her bio-data and delegation list.

Further, the balance includes other operating expenses amount of Kshs.42,246,062 which further includes Kshs.281,898 paid to a commercial bank. Review of records provided show that the amount is made up of interest at 1.5% of principal amount and excise duty at 20% of interest charged on a short-term borrowing of Kshs.15,661,048 which the County Assembly secured from a commercial bank, to pay salary advances for July, 2022. However, the short-term borrowing was not approved by the County Assembly.

In the circumstances, the accuracy and propriety of use of goods and services amounting to Kshs.23,519,674 could not be confirmed.

296. Over-Payment of Commuter Allowance

The statement of receipts and payments reflects compensation of employees amount of Kshs.377,018,607 which as disclosed in Note 4 to the financial statements includes personal allowances paid as part of salary amounting to Kshs.156,926,627. However, review of records provided revealed that Members of the County Assembly were sworn in on 21 September, 2022 but were paid commuter allowance for the whole month of September, 2022 when they qualified for a commuter allowance for two return journeys only. This led to overpayment of commuter allowances by Kshs.661,527 excluding Pay As You Earn.

In the circumstances, the accuracy and propriety of personal allowances paid as part of salary amounting to Kshs.661,527 could not be confirmed.

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Other Matter

297. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised. However, Management has not resolved and disclosed the status of all the prior year audit matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management has not provided satisfactory explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

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

Review of the payroll for the year revealed that seventeen (17) employees of the County Assembly received net salaries which were less than a third of their respective basic salaries. This was contrary to Section 19(3) of the Employment, 2007 which requires that an employee's salary should not be deducted beyond two thirds of the basis salary. The over-commitment of salary may result to pecuniary embarrassment.

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

299. Processing of Salaries Outside the Integrated Personnel and Payroll Database (IPPD) System

The statement of receipts and payments reflects compensation of employees' amount of Kshs.377,018,607 which include salaries amounting to Kshs.9,329,845 paid outside IPPD System. No explanation has been provided for the processing of the wages outside the IPPD system. This was contrary to Section 1.5.1 of the 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.

300. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees of the County Assembly was eighty-one (81) out of which eighty (80) or 99 % of the total number were members of 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

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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.

301. Irregular Remittance of Pay As You Earn (PAYE) on Gratuity Payments

The statement of receipts and payments reflects compensation of employees' expenses amounting to Kshs.377,018,607 which includes an amount of Kshs.5,863,647 being PAYE on gratuity benefits for forty (40) Members of the County Assembly (MCAs) who served between 2017 and 2022.

However, the County Assembly paid the amount from voted provision for the year under review instead of utilizing PAYE deducted from the monthly earnings of the MCAs. Although Management explained that PAYE was deducted monthly from the amounts paid to the MCAs, it was not clear why the deducted amounts were not used in settling the taxes due. Further, it was not clear in which account the amounts deducted were held. This was contrary to Section 104(i) of the Public Finance Management Act, 2012 which requires each County treasury to put in place proper management and control of, and accounting for finances of County Government and its entities in order to promote efficient and effective use of County's budgetary resources.

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

302. Unapproved Foreign Trainings

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.244,309,354 which includes foreign travel and subsistence expenses of Kshs.36,930,966 as disclosed in Note 5 to the financial statements. However, review of expenditure documents in support of the foreign travel and subsistence revealed that an amount of Kshs.8,677,850 was paid as per diem to staff to facilitate attendance for various trainings. It was not clear why all the courses could not be undertaken locally. This was contrary to Section 4.2.1 of the guidelines on managing training in the Public Service which provides that approval to train in foreign based institutions will be granted only in instances where the course applied for is not available in any local institution.

In the circumstances, value for money on the expenditure of Kshs.8,677,850 could not be confirmed.

303. Delayed Construction of Modern County Assembly Chambers, Offices, and Auxiliary

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.47,444,680 which as disclosed in Note 10 to the financial statements, includes expenditure amounting to Kshs.21,880,180 made to two contractors in respect of construction of Modern County Assembly chambers, offices and auxiliary amenities at a contract sum of Kshs.469,469,934. However, physical inspection done in the month of

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August, 2023, revealed that the project, was about 80% complete but the contractor was not on site.

In the circumstances, the value for money obtained for the expenditure amounting to Kshs.21,880,180 paid to the contractor during the year under review on the project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

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

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COUNTY ASSEMBLY OF BARINGO – NO.30

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

305. Inaccuracies in the Financial Statements

305.1 Variances Between the Amounts in the Financial Statements and IFMIS

Review of the statement of receipts and payments revealed that some balances in the statement significantly differ with corresponding balances in the Integrated Financial Management Information System (IFMIS) records as summarized in the table below;

Description	Financial Statements' Balances (Kshs)	IFMIS Balances (Kshs)	Variance (Kshs)
Compensation of Employees	371,293,490	361,910,662	9,382,828
Use of Goods & Services	332,584,681	330,870,128	1,714,553
Social Security	0	1,319,594	(1,319,594)
Acquisition of Assets	49,670,882	59,448,670	(9,777,788)

305.2 Inaccurate Opening Cash Balances

The statement of financial assets and liabilities reflects comparative cash balances of Kshs.107,600 instead of a Nil balance. The reported comparative balance instead relates to imprests and advances balances.

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

306. Unsupported Foreign Travel and Subsistence Expenditure

The statement of receipts and payments reflects use of goods and services balance of Kshs.332,584,681 as disclosed in Note 3 to the financial statements. The amount includes foreign travel and subsistence expenditure of Kshs.49,776,300 out of which Kshs.24,052,354 was spent on foreign trainings. However, supporting documents including training needs assessment, justification that the trainings were not locally available and relevant approvals by the Human Resource Advisory Committee was not provided for audit.

In the circumstances, the propriety, accuracy and completeness of foreign travel and subsistence expenditure of Kshs.24,052,354 could not be confirmed.

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307. Undisclosed Retentions and Deposits

The statement of financial assets and liabilities reflects Nil balance under retentions and deposits. However, records provided for audit indicated that there was retention fees of Kshs.3,690,598 during the year under review and Kshs.3,545,326 in the prior year.

In the circumstances, the accuracy and completeness of the Nil balance for retentions and deposits could not be confirmed.

Emphasis of Matter

308. Pending Bills

Annex 1 on pending accounts payable reflects pending bills balance of Kshs.8,860,269. However, the development vote book as at 30 June, 2023 reflects an outstanding commitment balance of Kshs.29,880 resulting to an unreconciled and an unexplained balance of Kshs.8,830,389.

Failure to settle bill in the year they relate to distorts the financial statements and adversely affects the budgeting prior of the subsequent year as they form first charge.

My opinion is not modified in respect of this matter.

Other Matter

309. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

310. Non-Compliance with the Law on Ethnic Composition Requirement

Review of the of personnel records indicated that the County Assembly had a staff complement of one hundred and fifty-seven (157) employees as at 30 June, 2023 out of whom one hundred and twenty- nine (129) or 82 % were from the dominant ethnic community in the County. 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.

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311. Failure to Implement E-Procurement System

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.332,584,681. Included in this amount are payments totalling Kshs.20,504,737 made to various suppliers outside the e-Procurement module in IFMIS contrary to 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 procurement to be undertaken through e-Procurement.

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

312. Irregular Payment on Subscriptions and Memberships

Note 3 to the financial statements reflects other operating expenses of Kshs.14,510,028 which includes Kshs.820,000 paid to Society of Clerks At The Table (SOCATT) and County Assembles Forum (CAF) as annual subscription fees. The operational expenses for the structures and institutions established under Intergovernmental Relations Act, 2012, are however supposed to 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.

313. Delayed Completion of the County Assembly's Chamber and Speaker's Office

The statement of receipts and payments reflects acquisition of assets of Kshs.49,670,882 which includes Kshs.4,893,171 in respect of proposed finishes of the County Assembly chamber and speaker's office as disclosed in Note 7 to the financial statements. The total contract value for the works was Kshs.15,511,648 with a commencement date of 25 April, 2022 and expected completion date of 25 April, 2023 subsequently extended to 30 June, 2023. As at the close of the financial year, cumulative payments towards the project amounted to Kshs.14,892,874 or 96% of the contract amount. However, despite the extension of time, the project had not been completed and handed-over as at 30 June, 2023.

In the circumstances, value for money on the expenditure of Kshs.14,892,874 could not be confirmed.

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

Basis for Conclusion

314. There were no material issues raised on 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

315. Misclassification of Payments

The statement of receipts and payments reflects use of goods and services expenditure amounting to Kshs.247,125,377. The amount includes domestic travel and subsistence amounting to Kshs.68,034,695 as disclosed in Note 5 to the financial statements. Review of records revealed that transfer to other Government entities totalling Kshs.1,642,000 was erroneously classified under domestic travel and subsistence.

In the circumstance, the accuracy, completeness and propriety of domestic travel and subsistence amounting to Kshs.1,642,000 could not be confirmed.

316. Overpayment of House Allowance

The statement of receipts and payments reflects compensation of employees amounting to Kshs.213,028,060 as disclosed in Note 4 to the financial statements. The amount includes house allowance totalling Kshs.2,261,833 which was paid to fifteen (15) employees. However, the house allowance was paid at rates higher than those approved by the Salaries and Remuneration Commission Circular Ref. SRC Circular SRC/TS/MDP/3/1/2 (2) of 10 December, 2014, resulting in unexplained overpayments of house allowance totalling Kshs.1,258,033.

In the circumstances, the accuracy and propriety of compensation of employees amounting to Kshs.1,258,033 could not be confirmed.

Emphasis of Matter

317. Pending Bills Not Paid as First Charge

Other Disclosures Note 1 to the financial statements reflects accounts payables amounting to Kshs.19,949,387. Management has not explained why bills were not settled during the year when they occurred. Further, the amount includes pending bills totalling Kshs.8,684,997 which were not supported by contractual documents, local purchase orders or local service orders.

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.

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Other Matter

318. Unresolved Prior Year Matters

In the previous audit report 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, although the Management has indicated that some of the issues have been resolved, the matters remained unresolved as the Senate and County Assembly has not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

319. Irregular Training and Liaison Meetings

The statement of receipts and payments reflects expenditure under use of goods and services totalling Kshs.247,125,377. The amount includes foreign travel and subsistence allowances totalling Kshs.22,836,921 as disclosed in Note 5 to the financial statements. Review of records revealed that an amount of Kshs.19,248,592 was paid to the County Assembly officers who attended training in Tanzania. However, the training expenses were not supported by back to office report detailing the benefits and experiences gained from the training. This was contrary to Executive Order SH/1/6XIV of 19 October, 2018 that requires public servants travelling outside the country to prepare a brief report and submit to the approving authority within seven (7) days after their return. Further, the use of goods and services amounting to Kshs.247,125,377 includes an amount of Kshs.1,260,000 paid to Members of County Assembly (MCAs) as imprest to hold liaison meetings on diverse dates. However, no back to office reports were provided to justify the expenditure.

In the circumstances, the value for money and regularity of the foreign travel and liaison expenditure amounting to Kshs.20,508,592 could not be confirmed.

320. Project Verification Reports

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.32,162,073. The amount includes refurbishment of buildings amounting to Kshs.10,704,074 as disclosed in Note 10 to the financial statements. Review of records revealed that an expenditure totalling Kshs.5,655,858 was incurred on construction of a lift shaft and slab extension at the County Assembly of Laikipia and Kshs.4,995,574 was incurred on construction of a junk yard. However, the projects which ought to have been completed by May and August, 2023, respectively, were below seventy-percent (70%) in completion level in November, 2023.

In the circumstances, the value for money for the payments on the two (2) projects totalling Kshs.10,651,432 could not be confirmed.

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321. Non-Compliance with Law on Ethnic Diversity

During the year under review, the County Assembly had a total of seventy-eight (78) employees out of whom fifty-nine (59) or 76% 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.

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

Review of payroll records revealed that three (3) employees earned a net salary of less than a third (1/3) of the 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 thirds (2/3) of such wages.

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

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

The statement of receipts and payments reflects compensation of employees amounting to Kshs.213,028,060 as further disclosed in Note 4 to the financial statements. The amount includes an amount of Kshs.46,205,272 paid to employees outside the Integrated Personal and Personnel and Payroll Data Base (IPPD). 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.

In the circumstances, Management was in breach of law.

324. Irregular Payments

The statement of receipts and payments reflects use of goods and services amounting to Kshs.247,125,377. The amount includes other operating expenses totalling Kshs.58,227,973 as disclosed in Note 5 to the financial statements. However, review of records revealed that the operating expenses includes subscription amount to Kshs.794,000 paid to society of Clerks at the Table (SOCATT). This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which requires the operational expenses for the structures and institutions established under Intergovernmental Relations Act, 2012, to 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.

325. Failure to Implement E-procurement Processes

Information available indicates that payments in respect of acquisition of assets totalling Kshs.21,457,999 were made. However, tender advertisement/requisition, opening of

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tenders, evaluation of tenders and award of tenders were done outside the Integrated Financial Management Information System (IFMIS). This was contrary to Regulation 49(2) of the Public Procurement and Assets Disposal Act, Regulations, 2020 which require procurement procedures for the supply of goods, works and services by a procuring entity to be on an e-procurement system which is integrated to the state portal.

In the circumstances, Management was in breach of law.

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

Basis for Conclusion

326. Lack of a Risk Management Policy and Disaster Recovery Plan

The County Assembly of Laikipia has not developed a risk management policy to guide its management on risk management assessment and fraud preventive mechanisms for both its financial, human resource and operational systems. Further, a disaster recovery plan and a backup and retention strategy have also not been implemented. The lack of disaster recovery strategy exposes the County Assembly's operations and information to potential loss in the event of the occurrence of risk.

327. Lack of Approved Information Technology (IT) Security Policy

As previously reported, the County Assembly did not have an approved IT policy for governance and management of its ICT resources. There is no steering committee in place to assist in the development of ICT policy framework to enable the County Assembly to realize long-term strategic goals.

Further, lack of an approved IT policy may result in an unclear direction regarding maintenance of information security across the organization and safeguarding the County Assembly's ICT assets.

In addition, without a sound and approved framework, users may not have any rules and procedures to follow in order to minimize risk of errors, fraud and the loss of data, confidentiality and integrity.

The County Assembly risks losing the assets due to lack of clear accountability policy.

328. Use of Personal Emails for Official Government Business

Review of correspondences and interview with the ICT Director revealed that most of the workers were using personal emails for official government business despite being provided with official email addresses as evidenced by an authorization for payment of imprest which was issued through a personal email contrary to the Head of public service circular SH/ADM 23(1) dated 14 June, 2022 on Government ICT standards, 2019.

This may jeopardize the security and confidentiality of the County Assembly's affairs.

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COUNTY ASSEMBLY OF NAKURU – NO.32

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

329. Non-Adherence to Cut-Off

The statement of receipts and payments reflects transfers from County Revenue Fund (CRF) as disclosed in Note 1 to the financial statements amount of Kshs.1,770,069,191. However, the amount includes Exchequer releases amount of Kshs.189,635,574 received after 30 June, 2023. Further, the statement reflects total payments of Kshs.1,770,075,918 out of which Kshs.136,808,853 were expenditures made after the year end.

In the circumstances, the accuracy and completeness of transfers from CRF amount of Kshs.1,770,069,191 and total payments of Kshs.1,770,075,918 could not be confirmed.

330. Unsupported Compensation of Employees

The statement of receipts and payments reflects compensation to employees amount of Kshs.383,114,160 as disclosed in Note 4 to the financial statements. However, supporting documents and schedules reflects amount of Kshs.355,824,196 resulting to an unexplained variance of Kshs.27,289,964. In addition, compensation of employees' balance includes salary payments of Kshs.6,576,560 for officers on secondment which ought to be paid / reimbursed by the host organization.

In the circumstances, the accuracy and propriety of the compensation of employees cost of Kshs.383,114,160 could not be confirmed.

331. Unsupported Imprests and Advances

The statement of financial assets and liabilities reflects imprests and advance balance of Kshs.230,000 as disclosed in Note 12 to the financial statements. However, detailed schedules indicating the opening balances, imprests issued, surrenders and closing balances were not provided for audit.

In the circumstance, the accuracy and completeness of imprests and advance balance of Kshs.230,000 could not be ascertained.

332. Inaccuracies in Acquisition of Assets

As previously reported, annex 4 on summary of non-current asset register reflects comparative historical asset cost of Kshs.1,148,484,472. However, the balance excludes the value of land on which the County Assembly offices are situated. Further, the balance included transport equipment valued at Kshs.76,542,873 which differs with the supporting schedule amount of Kshs.79,242,873 resulting to an unexplained and unreconciled variance of Kshs.2,700,000.

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In the circumstances, the accuracy and completeness of assets balance of Kshs.1,148,484,472 could not be confirmed.

Emphasis of Matter

333. Pending Bills

Annex 1 – Analysis of pending accounts payable to the financial statements reflects pending bills balance of Kshs.59,200,501. Management did not explain why the bills were not settled during the year when they occurred.

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

My opinion is not modified in respect of this matter.

Other Matter

334. 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 and Report on Effectiveness of Internal Controls, Risk Management and Governance which have remained unresolved as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

335. Irregular Payments

The statement of receipts and payments reflects use of goods and services amount of Kshs.760,730,430 as disclosed in Note 5 to the financial statements. The amount includes an expenditure of Kshs.5,747,320 incurred on membership fees, dues and subscriptions to professional and trade bodies out of which an amount of Kshs.5,450,000 was paid to Society of Clerks at the Table (SOCATT) and the County Assemblies Forum as annual subscription fees. However, review of records revealed that these entities are not intergovernmental relation in legal capacity and the payments were not budgeted for.

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

336. Unauthorized Expenditure

The statement of receipts and payments reflects acquisition of assets amount of Kshs.193,992,614 as disclosed in Note 8 to the financial statements. The balance includes an amount of Kshs.45,216,103 on construction of buildings out of which an amount of Kshs.31,946,383 was expenditures in respect of non-residential buildings (offices, schools, hospital) and Kshs.4,100,000 on other infrastructure and civil works

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which were not budgeted for. This was contrary to Regulation 53(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for a specific activity for purposes other than those activities.

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

337. Discriminative Procurement Process

The statement of receipts and payments reflects acquisition of assets amount of Kshs.193,992,614 which, as disclosed in Note 8 to the financial statements includes an amount of Kshs.4,100,000 spent on Solarization of the County Assembly lighting system. The system was procured through an open tender advertised for provision of bulk printing services and proposed renovation of offices and installation of solar security light within County Assembly premises. However, one of the mandatory requirements in the tender documents was " a valid business permit issued by Nakuru County Assembly," yet an open tender is supposed to give equal opportunity to all tenderers. The condition was discriminative to other tenderers from other towns in Kenya. This was contrary to Section 157(1) of the Public Procurement and Asset Disposal Act, 2015 which states that candidates shall participate in procurement proceedings without discrimination except where participation is limited in accordance with this Act and the regulations.

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

338. Unapproved Refurbishment of the Buildings

The statement of receipts and payments reflects acquisition of assets amount of Kshs.193,992,614 as disclosed in Note 8 to the financial statements. Included in the amount is Kshs.15,642,591 relating to refurbishment of the building out of which an amount of Kshs.4,619,120 was incurred on improvement of the leeway road to executive residence that was not supported by the approval letter from the County Government.

In the circumstances, value for money incurred on the refurbishment of buildings amount of Kshs.4,619,120 could not be confirmed.

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

Conclusion

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

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COUNTY ASSEMBLY OF NAROK – NO.33

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

340. Variances Between Financial Statements and Integrated Financial Management Information System (IFMIS) Balances

The financial statements reflect balances that differ with Integrated Financial Management Information System records as detailed below;

Particulars	Financial Statements Kshs.	IFMIS Balances Kshs.	Variance Kshs.
Compensation of Employees	501,939,299	367,584,710	134,354,589
Use of Goods and Services	292,291,885	210,487,906	81,803,979
Transfer to Other Government Entities	235,000,000	245,000,000	10,000,000
Acquisition of Assets	56,281,181	55,421,368	859,813
Government Imprests	0	7,496,367	7,496,367
Domestic Debtors and Advances	0	11,518,161	11,518,161
Provision for Encumbrance	0	307,419,569	307,419,569
Development Bank Account	0	70,692,149	70,692,149

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

341. Inaccuracies in Expenditure on Compensation of Employees

The statement of receipts and payments reflects compensation of employees' balance of Kshs.501,939,299 as disclosed in Note 4 to the financial statements. However, the payroll by product reflects an amount of Kshs.504,259,996 resulting to an unreconciled variance of Kshs.2,320,697.

In the circumstances, the accuracy and completeness of expenditure on compensation of employees of Kshs.501,939,299 could not be confirmed.

342. Unsupported Acquisition of Assets

The statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.56,281,184 out of which Kshs.23,532,108 was paid to ten (10) contractors for renovation of various buildings and structures. However, the renovation works were not supported by pre- and post-inspection reports by the Department of Public Works. It was therefore not possible to ascertain the scope of the renovation works carried out. Further,

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the expenditure includes an amount of Kshs.5,780,357 that is not related to refurbishment of buildings and structures.

In the circumstances, the occurrence, completeness and accuracy of expenditure on acquisition of assets of Kshs.56,282,184 could not be confirmed.

343. Pending Accounts Payable

Other disclosure Notes to the financial statements reflects pending accounts payable balance of Kshs.30,887,215. However, review of records revealed that the County Assembly owed the Local Authorities Provident Fund (LAPFUND) contributions in arrears (principal amount and interest) of Kshs.103,647,243 out of which Kshs.34,843,561 was paid leaving a balance of Kshs.68,803,682 which was not disclosed in the financial statements. Further, 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, 2023, which was also not disclosed in the financial statements.

In addition, the balance includes suppliers of services a balance of Kshs.28,880,255 out of which an amount of Kshs.4,5000,000 was owed 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 therefore not possible to confirm whether the legal fees commitment was as per the rates prescribed by the Law Society of Kenya.

In the circumstances, the completeness, accuracy and presentation of accounts payables balance of Kshs.30,887,215 could not be confirmed.

Emphasis of Matter

344. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development reflects final receipts budget and actual amount on a comparable basis of Kshs.1,208,955,593 and Kshs.1,085,575,145 respectively, resulting to an underfunding of Kshs.123,380,448 or 10% of the budget. Similarly, the statement reflects total expenditure budget of Kshs.1,208,955,593 against an actual on comparable basis of Kshs.1,085,512,368 resulting in overall under-expenditure of Kshs.123,443,225 or 10% of the approved budget.

The underfunding and under-expenditure impact negatively on the delivery of services to the residents of Narok County.

My opinion is not modified in respect of this matter.

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Other Matter

345. 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 which have remained unresolved as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

346. Non-Compliance with the Law on Payment of Pending Bills

Annex 1 to the financial statements reflects analysis of pending accounts payable of Kshs.30,887,215 relating to 2020/2021 and earlier years. However, Management has not provided any explanation for failure to settle the bills as first charge in compliance with Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which prioritize debt payments as a first charge. Further, the documentary evidence in support of pending accounts payables were not provided for audit review.

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

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

During the year under review, twenty-four (24) employees earned a net salary of less than a third (1/3) of the 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 did not give explanation for the failure to comply with the law.

In the circumstances, Management was in breach of the law and may expose the staff to pecuniary embarrassment.

348. Non-Remittance of Statutory Deductions

Review of documents provided for audit revealed that the County Assembly deducted pension contributions totalling Kshs.11,104,350 for Local Authorities Pensions Trust. However, no documentary evidence was provided to support remittance of the deductions.

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

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REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

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Basis for Conclusion

349. Lack of Risk Management Policy

During the year under review, the County Assembly did not have a Risk Management Policy in place and therefore had no approved processes and guidelines on how to mitigate operational, legal and financial risks of the County Assembly.

In the circumstances, the effectiveness of Management to identify and mitigate emerging risks in the day to day operations could not be confirmed.

350. Failure to Update Non-Current Assets Register

Annex 4- summary of non-current asset register to the financial statements reflects the asset balance of Kshs.200,829,252. The balance includes buildings and structures of Kshs.153,161,258. However, the value of land on which the buildings and structures stand has not been disclosed and the title 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 has not indicated plans for their repairs and putting into use.

In the circumstances, the effectiveness of the asset management measures put in place by the County Assembly could not be confirmed.

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COUNTY ASSEMBLY OF KAJIADO – NO.34

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

351. Misclassification of Expenditure – Other Operating Expense

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.407,612,751. Included in the amount is Kshs.39,436,076 relating to other operating expenses. Review of records provided revealed that an amount of Kshs.1,970,000 paid for provision of training services was wrongly charged to other operating expense.

In the circumstances, the accuracy of other operating expense amounting to Kshs.1,970,000 for the year ended 30 June, 2023 could not be confirmed.

352. Presentation and Disclosure Errors in the Financial Statements

The statement of financial assets and liabilities and the statement of cashflows reflects prior year adjustments of Kshs. 8,767,856. However, the corresponding Note 17 discloses changes in imprest and advances with Nil balances. Further, the statement of cashflows reflects an increase in accounts payable of Kshs.4,310,444 under Note 19 which does not exist in the financial statements.

In the circumstances, the accuracy and completeness of prior year adjustments of Kshs.8,767,856 and increase in accounts payable of Kshs.4,310,444 could not be confirmed.

Emphasis of Matter

353. Budgetary Control and Performance

The statement of comparison of budget and actual amounts; recurrent and development reflects total budgeted receipt and actual on comparable basis of Kshs.1,047,066,117 and Kshs.941,094,383 respectively, resulting in a shortfall of Kshs.105,971,734 or 10 % of the budget. Similarly, the County Assembly expended Kshs.941,089,062 against a budget of Kshs.1,047,066,117 resulting to an under-expenditure of Kshs.105,977,055 or 10% of the budget.

In the circumstances, the under-funding and under-expenditure affected implementation of the planned projects and programs and may have impacted negatively on service delivery to the public.

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354. Pending Bills

Annex one to the financial statements reflects analysis of pending accounts payable amount of Kshs.39,061,032 which ought to have been settled during the year under review but were instead carried forward to the year 2023/2024. No satisfactory explanation was provided for failure to settle the pending bills during the year.

My opinion is not modified in respect of these matters.

Other Matter

355. 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 the failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting template.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

356. Non-Compliance to the One Third Rule on Basic Pay

Review of the payroll for the month of June, 2023, revealed that a number of employees had over committed their salaries beyond the two third limit as provided for by Section 19(3) of the Employment Act, 2007. Non-compliance to the one third rule on basic pay may result in pecuniary embarrassment to the employees of the County Assembly.

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

357. Non-Compliance with the Law on Ethnic Composition

Review of human resource records at the County Assembly reveals that there were one hundred and eighty-five (185) employees out of whom one hundred and forty (140) or 76% were from the dominant ethnic community in the County. This is in contravention of Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment shall have more than one third (1/3) of its staff from the same ethnic community.

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

358. Irregular Subscription Payments to Society of Clerks at the Table

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amounting to Kshs.407,612,751. The

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amount includes an expenditure of Kshs.39,436,076 incurred on other operating expenses out of which Kshs.750,000 was paid to Society of Clerks at the Table (SOCATT). However, review of records revealed that the Society was not an intergovernmental relation body in legal capacity and the payment was not budgeted for under the County Assembly's estimate contrary to Section 42(1)(b) of 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.

359. Irregular Engagement of Consultants of Legal Services

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflect use of goods and services of Kshs.407,612,751. Included in this balance is an amount of Kshs.39,436,076 for other operating expense which includes Kshs.4,264,000 being payments for legal fees. However, scrutiny of documents provided revealed that the County Assembly engaged consultants to render legal services without the approval of the County Attorney in contravention to Section 7(a) of the Office of the County Attorney Act of 2020, which places the County Attorney as the principal legal adviser of the County Government.

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

360. Stalled Works on County Assembly Chambers

The Management engaged a contractor for the construction of County Assembly Chambers at a contract sum of Kshs.577,973,400. The project commencement date was 27 March 2017 for a period of five (5) years, to be completed on 26 March, 2022. Review of project documents and physical verification during the month of November, 2023 revealed that the project stalled nine (9) months to completion date, in July, 2021 at 34% completion level. By November, 2023, an amount of Kshs.192,459,775 had been paid to the firm.

Further, the performance bond expired on 13 March, 2022 and had not been renewed which exposes the project to possibility of loss should the contractor fail to deliver the project as per the contract terms. Demand letter dated 11 March, 2022, to the financier to pay Kajiado County Assembly an amount of Kshs.20 million has not been honoured to date.

In the circumstances, the public may not derive value for money for Kshs.192,459,775 spent on the project.

361. Non-Adherence to the Procurement Plan Reservations for the Special Groups

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services of balance of Kshs.407,612,751. Included in this balance is an amount of Kshs.3,933,672 used for office and general supplies services. Review of

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procurement plan revealed that the item was 100% reserved for youth and request for quotations method of procurement was used. However, scrutiny of procurement documents and processes revealed that bidders who were awarded contracts to supply office stationeries had not attached AGPO certificates which was a mandatory qualification. This was contrary to Section 157(6) of the Public Procurement and Asset Disposal Act, 2015 which requires a candidate to provide evidence of eligibility for a specific preference or reservation.

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

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

Basis for Conclusion

362. Unupdated Fixed Asset Register

Review of the fixed assets register revealed that the value of two parcels of land had not been recorded contrary to Section 136(2) of the Public Finance Management (County Governments) Regulation, 2015 which requires the recording of each land and building in an asset register including the related capital expenditure. Further, the parcels of land did not have ownership documents.

In the circumstances, the existence of a proper control system for assets and preventive mechanisms to eliminate theft, security threats, losses, wastage and misuse and ensuring that movement and conditions of the assets can be tracked could not be confirmed.

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COUNTY ASSEMBLY OF KERICHO – NO.35

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

363. Inaccuracies in the Financial Statements

363.1 Variances in Comparative Amounts

The statement of receipts and payments reflects comparatives balance in respect of use of goods and services of Kshs.340,558,356 which, as disclosed in Note 5 to the financial statements includes balances of Kshs.5,524,071 and Kshs.2,745,076 in respect of rentals of produced assets and specialized materials and services respectively. The amounts are at variance with the previous years audited amounts of Kshs.4,775,912 and Kshs.3,493,235 in the re-stated financial statements for the year 2021/2022 resulting to unexplained and unreconciled variance of Kshs.748,159 for each expenditure item.

In the circumstances, the accuracy and completeness of the balances in respect of rentals of produced assets and specialized materials and services could not be confirmed.

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

The financial statements presented for audit and the Integrated Financial Management Information Systems (IFMIS) reports provided for audit had significant variances as detailed below:

Item Description	Financial Statements (Kshs.)	IFMIS (Kshs.)	Variance (Kshs.)
Transfers from CRF	914,130,822	895,685,204	18,445,618
Compensation of Employees	331,179,225	310,066,184	21,113,041
Use of Goods and Services	299,971,998	281,706,447	18,265,551
Transfer to Other Government Entities	115,318,307	210,859,696	95,541,389
Social Security Benefits	51,638,558	42,421,308	9,217,250
Acquisition of Assets	34,084,624	12,885,976	(200,016,088)
Accounts Payables - Deposits	-	2,270,924,971	(2,270,924,971)

The variances have not been explained or reconciled.

364. Unsupported Foreign Travel and Subsistence Expenditure

The statement of receipts and payments reflects an amount of Kshs.299,971,998 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements includes foreign travel and subsistence expenditure of Kshs.55,162,680. The payments were made to Members of County Assembly and staff to cater for trips to seven

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(7) foreign countries. However, justification that the trainings were not locally available and the training needs assessment in support of the foreign trainings were not provided for audit.

In the circumstances, the accuracy and regularity of the expenditure amounting to Kshs.55,162,680 in respect of use of foreign travel and subsistence expenditure could not be confirmed.

365. Non-Disclosure of Retentions and Deposits

The statement of financial assets and liabilities reflects Nil balance in respect of third-party deposits and retentions as disclosed in Note 15 to the financial statements. However, retention and deposits records provided for audit indicate that the County Assembly had withheld total amount of Kshs.647,813 in respect of retention fees. No evidence was provided to disclose proof that the retention amount was safely kept and available for payment as and when they are due. Further, supporting documents including bank statements and interim payment certificate (IPC) were not provided for audit.

In the circumstances, the accuracy and completeness of the Nil balance in respect of third-party deposits and retention could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

366. Irregular Multiple Salary Advances to Staff

Review of the salary advance register revealed that sixteen (16) members of staff were issued with salary advances totalling Kshs.1,504,909 before clearing the previous advances. This was contrary to Policy C.6.4 of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which states that salary advance may be granted only when an officer has no other outstanding salary advance.

In the circumstances, Management was in breach the law.

367. Non-Compliance with One Third Basic Salary Rule

Review of the payroll records for the month of June, 2023 revealed that eighty-eight (88) staff and Members of the County Assembly earned net salaries of less than one third (1/3) of their respective basic salaries pay. This was contrary to Section 19(3) of the Employment Act, 2007 and Section C.1(3) Human Resource Policies and Procedures Manual for the Public Service, 2016 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 or such additional or other amounts as may be prescribed.

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

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368. Irregular Payment to Society of Clerks-at-the-Table

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.299,971,998 as disclosed in Note 5 to the financial statements, which includes an amount of Kshs.14,396,299 in respect of other operating expenses. The expenditure includes subscription fees of Kshs.884,333 made to the Society of Clerks-at-the-Table (SOCATT). However, the SOCATT does not draw its mandate from the Constitution of Kenya or an Act of Parliament and payments to this organization was not based on any law.

In the circumstances, payment of subscription fees of Kshs.884,333 was not prudent.

369. Delayed Completion of Speaker's Residence

The statement of receipts and payments reflects acquisition of assets amount of Kshs.34,084,624 as disclosed in Note 10 to the financial statements, which includes an amount of Kshs.6,478,126 in respect of the construction and completion of speaker's residence. Review of the supporting documents including the payment vouchers and procurement documents revealed that the County Assembly entered into a contract with a local contractor to construct the Speaker's residence at a contract price of Kshs.34,595,580 which started on 02 August, 2019 with the expected completion date of 28 January, 2020. However, the project remained incomplete for more than four (4) years after its commencement and after completion date had been extended six (6) times. Further, the performance bond from a local bank provided by the contractor expired on 22 March, 2023 and had not been renewed and the contractor was on site without a valid performance bond in contravention of Section 142 (1) of the Public Procurement and Asset Disposal Act, 2015.

Further, the interim completion certificates detailing amount paid to the contractor and retention fees were not provided for audit review. Review of certificate of practical completion 'as is' issued on 16 June, 2023 indicated that the construction was completed as per the full contract sum and ready for handing over. However, physical verification undertaken in the month of November, 2023 revealed that the construction was still in progress with internal and external finishes, plumbing, tiling, electrical works, interior fittings and painting still not completed. This was contrary to Salaries and Remuneration Commission (SRC) circular Ref. No. SRC/TS/CGOVT/3/61/VOL.V (52) dated 12 July, 2021 requiring the County Assemblies to hasten the construction of the official Speakers' residences by setting the deadline at 30 June, 2022.

In the circumstances, value for money on the expenditure of Kshs.6,478,126 in respect of the completion of speaker's residence could not be confirmed.

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

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

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COUNTY ASSEMBLY OF BOMET– NO.36

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

371. Unsupported Foreign Travel and Subsistence Allowance

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amount of Kshs.281,606,947 which includes Kshs.47,335,480 in respect to foreign travel and subsistence to Members of County Assembly attending training in seven (7) foreign countries. However, the foreign trainings were not supported with training needs assessment and identifications of skill gaps contrary to Section K.4.4 of County Assembly Human Resource Policies and Procedures Manual of October, 2021 which stipulates that selection of trainees for all training programs to be based on identified needs.

In the circumstances, the accuracy, completeness and regularity for the expenditure amount of Kshs.47,335,480 could not be confirmed.

372. Unsupported Other Operating Expenses

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflect use of goods and services amount of Kshs.281,606,947 which includes Kshs.14,699,353 in respect of other operating expenses which further includes Kshs.1,042,440 in respect of rent for ward offices. However, the title deeds from the landlords confirming land ownership and releasing of the offices to the County Assembly were not provided for audit review.

In the circumstances, accuracy, completeness and regularity of other operating expenses amount of Kshs.1,042,440 could not be confirmed.

Emphasis of Matter

373. Pending Bills

Other Important Disclosures and Annexure 1 to the financial statements reflects pending accounts payable balance of Kshs.2,643,640 which were not settled during the year under review but were carried forward to 2023/2024 financial year. However, supporting documents including invoices, payment vouchers and procurement documents were not provided for audit review. In addition, the dates when the goods and services were incurred were not included in Annexure 1. Also, details of the pending bills indicating when they were incurred and the movement to the current balance were not provided for audit review.

Management did not explain why the bills were not settled as the first charge during the year under review. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which prioritizes debt payments as a first charge.

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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.

Other Matter

374. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditors' recommendation section of the financial statements, Management indicated that seven (7) prior year audit issues were resolved with a balance of three (3) not resolved. However, Management did not provide reports and invitations from the oversight committee's detailing the deliberations and recommendations of the committees.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

375. Irregular Payment of Salaries Outside the Integrated Payroll and Personnel Database (IPPD) System

The County Assembly processed and paid forty-nine (49) employees and Members of the County Assembly outside the prescribed Integrated Payroll Personnel Database (IPPD) system contrary to The National Treasury Circular No.13/2019 dated 28 August, 2019, which states that Integrated Payroll Personnel Database (IPPD) must support the allocation of personnel emoluments. No explanation was provided by Management for the use of the manual system.

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

376. Non-Compliance with One Third Basic Salary Rule

Review of the payroll records revealed seventeen (17) employees received net pay below a third (1/3) of their basic salary contrary to provisions of Section 19(3) of the Employment Act, 2007, which stipulates that the deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed.

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

377. Irregular Payment of Subscriptions to Professional Bodies

The County Assembly made payments of Kshs.750,000 and Kshs.700,000 relating to subscription fees to the Society of Clerks-at-the-Table (SOCATT) and the County Assemblies Forum (CAF) respectively. However, the payments were made without budgetary allocation contrary to Regulation 31(a) and 50(2) of the Public Finance

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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.

Further, there is no existing law or policy in place authorizing the said payments of subscription fees and no verifiable document was provided for audit to support the two organizations Constitutional mandates.

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

378. Delayed Completion of Speaker's Residence

The County Assembly awarded tender to construct the Speaker's residence on 13 January, 2022 at a cost of Kshs.34,500,000 for a period of twenty-four (24) weeks ending 16 September, 2022. Project records indicated that the contractor had been paid a total amount of Kshs.12,578,000 equivalent to 36% of the contract amount against certified works completed as at 30 June, 2023. However, physical verification in the month of October, 2023 revealed that the construction was not complete after the initial contract was extended by another twelve (12) months to 07 November, 2023. Plastering, electrical, plumbing and painting works had not been completed and Management did not provide for audit review the revised work schedule as well as the extended performance bond.

In the circumstances, the value for money for Kshs.12,578,000 may not be realized from the delayed works.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

379. Weak Information and Communication Technology (ICT) Controls

Review of the County Assembly's ICT Environment revealed that there was no reliable information back-up plan in place. Management did not assess the impact of an outage or disruption to the Information Communication Technology Systems such as the Hansard System. Further, Management did not develop business continuity or information technology disaster recovery plan and there was no IT Strategic Committee which should provide governance on information technology matters.

In the circumstances, in case of a disaster, significant delays or disruptions of activities may occur, the County Assembly may not recover or restore critical infrastructure services and systems affecting all operations that rely on the Information Communication Technology.

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COUNTY ASSEMBLY OF KAKAMEGA – NO.37

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

380. Undisclosed Casual Workers Expenditure

The statement of receipts and payments reflects compensation of employees balance of Kshs.497,900,738 as disclosed in Note 4 to the financial statements. Review of manual payrolls revealed eleven (11) casual workers who were paid Kshs.1,848,800 which was not disclosed in the financial statements. In addition, there was no evidence of approval by the County Assembly Service Board to engage the casual workers.

In the circumstances, the accuracy and completeness of compensation of employees expenditure of Kshs.497,900,739 could not be confirmed.

381. Un-Supported Expenditure

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.406,175,294 as disclosed in Note 5 to the financial statements. However, the following unsatisfactory matters were noted;

381.1 Foreign Travel Payments

The amount includes foreign travel and subsistence expenditure of Kshs.27,683,670 out of which Kshs.1,044,700 was paid as reimbursement of per diem and air tickets. However, relevant supporting documents such as travel clearance by the authorized officer, boarding passes, signed list of participants for each day of the meeting, programme of the event and training certificates were not provided for review.

381.2 Hospitality Supplies and Services

Use of good and services includes hospitality supplies and services amount of Kshs.59,641,172 out of which an amount of Kshs.6,870,000 was paid to various contractors and suppliers. However, the payments were not supported by electronic tax registers, local purchase/service orders, delivery notes, goods received notes, inspection and acceptance certificates and quotations.

381.3 Office and General Supplies and Services

Included in use of goods and services is office and general supplies and services amount of Kshs.9,613,382 out of which Kshs.2,457,500 was incurred on purchase of various items that were not supported with procurement documents and stores records.

381.4 Routine Maintenance - Other Assets

Use of goods and services amount includes Kshs.10,645,217 relating to routine maintenance - other assets out of which Kshs.9,985,037 was paid to various

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contractors to repair hansard equipment, office furniture, painting of building and supply of materials. However, the amount was not supported by inspection and acceptance certificates or reports.

In the circumstances, the accuracy and completeness of use of goods and services expenditure amounting to Kshs.406,175,294 could not be confirmed.

382. Inaccuracy of Outstanding Imprest

The statement of assets and liabilities reflects imprests and advances balance of Kshs.52,848,455 as disclosed in Note 14 and Annex 5 to the financial statements. However, the balance differs from Kshs.43,250,696 recorded in the imprest register and imprest warrants resulting to an unexplained and unreconciled variance of Kshs.9,597,759. In addition, no explanation was provided for failure to have the imprests surrendered or accounted on due dates.

In the circumstances, the accuracy and completeness of the imprest and advances balance of Kshs.52,848,455 could not be confirmed.

383. Pending Accounts payables

Note 1 on Other Important Disclosures reflects pending accounts payables balance of Kshs.88,000,000 being additions for the year under review. However, the balance omitted opening balance of Kshs.53,028,597 reported in the audited financial statements for the year ended 30 June, 2022. No explanation and documentary evidence was provided on how the previous year's balance was cleared.

Further, details of the pending bills indicating when they were incurred and the movement to the current balance were not provided for audit review. Management did not explain why the bills were not settled as the first charge during the year under review. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which prioritizes debt payments as a first charge.

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

384. Irregular Salary Incremental Credits to Staff

Review of the payrolls revealed that staff members specifically those in Job Groups Q and S (equivalent of CASB 4 and CASB 2 respectively) in the County Assembly earned

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special salaries in the form of incremental credits amounting to Kshs.1,201,840. This was done despite the staff having reached their maximum annual incremental limits.

No evidence was provided from the Salaries and Remuneration Commission approving incremental credits payments. This was contrary to the Salaries and Remuneration Review Commission review of salaries for County Government employees at the County Assemblies which was effective from 1 July, 2020.

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

385. Non-Remittance of Statutory Dues

Review of the payrolls revealed that a total of Kshs.2,385,100 was deducted from employees in respect of National Health Insurance (NHIF) contributions and Kshs.36,670,569 in respect of Local Authorities Provident Fund (LAPFUND). However, only Kshs.1,906,650 and Kshs.22,148,672 were remitted to the Funds resulting to unremitted balances of Kshs.478,450 and 14,521,897 respectively. This was contrary to Regulation 22(2)(a) of the Public Finance Management (County Governments) Regulations, 2015, which requires Accounting Officers to comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided for by legislation.

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

386. Lack of Staff Ethnic Diversity

Review of human resource records including the payrolls indicated that the County Assembly had eighty-seven (87) employees, out of whom eighty-four (84) employees or 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, “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 the law.

387. Failure to Construct the Speaker’s Official Residence

During the year under review, the County Assembly paid Kshs.960,000 as house allowances to the Speaker at a rate of Kshs.80,000 per month. This was contrary to SRC Circular Ref. SRC/TS/CGOVT/3/61/VOL.V(44) dated 14 August, 2020 which extended the deadline for meeting the directive on housing benefit to 30 June, 2022, on which date the option for Counties paying rent or leasing houses for the eligible State Officers’ official residential houses would cease.

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

388. Failure to Withhold VAT on Consultancy Services

The statement of receipts and payments reflects an amount of Kshs.406,175,294 in respect of use of goods and services which, as disclosed in Note 5 to the financial

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statements, includes an amount of Kshs.28,763,276 relating to other operating expenses out of which an expenditure of Kshs.11,766,474 was incurred on consultancy services. However, the service providers were paid in full without withholding five (5) percent Value Added Tax (VAT) contrary to Section 4(1) and (2) of the Income Tax Act, Cap.470.

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

389. Unsupported Overdrawn Bank Balances

The statement of financial assets and liabilities reflects an overdrawn bank balance of Kshs.38,909,557 as disclosed in Note 13A to the financial statements which was in respect to two (2) bank accounts. This was contrary to Section 119(4) of the Public Finance Management Act, 2012, which prohibits an accounting officer of a County Government entity from causing a bank account to be overdrawn beyond the limit authorized by the County Treasury. No evidence was provided to show that the County Treasury had authorized any limit hence it was not possible to confirm whether the two overdrawn balances were within authorized limits.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

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

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COUNTY ASSEMBLY OF VIHIGA – NO.38

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

391. Unsupported Compensation of Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.348,393,601 on compensation of employees. However, review of the IPPD ledgers, bank remittances and manual payroll showed that four (4) employees were in the payroll but not in master data (complement file) resulting to irregular payment of Kshs.2,666,432. Similarly, sixty-three (63) employees were in both the manual payroll and the IPPD payroll resulting to double payment of salaries amounting to Kshs.14,166,755.

Further, fifty-three (53) staff members were overpaid by an amount of Kshs.402,864 when compared with the amount processed in the payroll while seventy-nine (79) employees were paid salary arrears more than once during the year amounting to Kshs.31,391,808.

In the circumstances, the accuracy and completeness and regularity of the amount of Kshs.348,393,601 on compensation of employees could not be confirmed.

392. Unsupported Domestic Travel and Subsistence Payments

The statement of receipts and payments reflects an amount of Kshs.242,773,913 relating to use of goods and services which, as disclosed in Note 4 to the financial statements includes an amount of Kshs.104,474,047 on domestic travel and subsistence allowance. Review of documents revealed that an amount of Kshs.643,000 was paid to a supplier for provision of catering services to an adhoc committee. However, no program was provided to indicate the date, authority and the type of activities that the committees were engaged in. Further, expenditure totalling Kshs.1,715,500 was charged to domestic travel and subsistence allowance instead of the hospitality expenses.

In addition, an amount of Kshs.805,028 was paid to a service provider for flight services to Seychelles. However, this payment was charged to domestic travel and subsistence allowance instead of foreign travel and subsistence payment. Further, the supplier invoice was not provided for audit review and the payment did not indicate the name of the officer who travelled and the purpose of the safari.

In the circumstances, the accuracy and completeness of an amount of Kshs.2,520,528 incurred under domestic travel and subsistence allowances could not be confirmed.

393. Irregular Payment of Daily Subsistence Allowances

The statement of receipts and payments reflects an amount of Kshs.242,773,913 relating to use of goods and services, which as disclosed in Note 4 to the financial statements includes an amount of Kshs.104,474,047 on domestic travel and subsistence allowance.

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This amount in turn includes an amount of Kshs.17,830,350 paid to nine (9) staff members in respect to daily subsistence allowances. The amount was paid covering periods ranging from 90 days to 150 days. The expenditure was incurred on activities that relate to daily normal duties of the officers.

In the circumstances, the regularity and completeness of the domestic travel and subsistence allowance amounting to Kshs.17,830,350 could not be confirmed.

394. Unsupported Insurance Costs

The statement of receipts and payments reflects Kshs.242,773,913 in respect to use of goods and services which, as disclosed in Note 4 to the financial statements includes insurance costs of Kshs.29,874,366. This amount in turn includes Kshs.2,559,287 paid for motor vehicle insurance by documentary evidence of the payments to the insurance companies. Instead the payments were made to insurance brokers contrary to Section 156(2) of the Insurance Act, 2020 which provides that an intermediary shall not receive any premiums on behalf of an insurer.

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

395. Unsupported Transfers to Other Government Entities

The statement of receipts and payments reflects an amount of Kshs.17,187,955 relating to transfers to other government entities, which as disclosed in Note 5 to the financial statements relates to refunds to County Treasury for amounts borrowed by the County Assembly. However, review of the financial statements of the Receiver of Revenue, County Revenue Fund and the County Executive did not indicate any such transfers. Further, the payment vouchers were not supported with specific details of expenditure.

In the circumstances, the accuracy and completeness of the transfers to other government entities amounting to Kshs.17,187,955 could not be confirmed.

396. Unsupported Cash and Bank Balances

The statement of financial assets and liabilities and as disclosed in Note 9A to the financial statements reflects bank balances of Kshs.296,876 from five (5) bank accounts held by the County Assembly of Vihiga. However, no Board of Survey reports were provided in support of bank balances from two bank accounts held at Co-operative bank which reported a balance of Kshs.2,190 and one held at Kenya Commercial Bank reported a balance of Kshs.223.

In the circumstances, the accuracy of cash and bank balances of Kshs.296,876 could not be confirmed.

397. Unsupported Imprest and Salary Advances

The statement of financial assets and liabilities and as disclosed in Note 10 to the financial statements reflects an amount of Kshs.389,664 in respect to imprests and advances. This amount indicates a decrease by Kshs.2,452,436 from the closing balance of

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Kshs.2,842,100 in 2021/2022. However, no surrender vouchers, schedule of recoveries, imprest register and salary advances register were provided for audit to support the movements.

Further, included in the amount of Kshs.389,664 is a balance of Kshs.180,041 described as government imprest issued as imprests to staff. However, the supporting schedule reflects imprests amounting to Kshs.700,000 which were issued to four (4) staff members between May and June, 2023 resulting to a variance of Kshs.519,959 which has not been explained or reconciled.

In the circumstances, the accuracy and completeness of imprests and advances balance of Kshs.389,664 could not be confirmed.

398. Unsupported Contingent Liabilities

Note 5 to the financial statements under other disclosures reflects contingent liabilities balance of Kshs.2,797,250, which is a decrease of Kshs.8,856,569 from the previous year's balance of Kshs.11,653,819. However, Management did not provide any documentation to support the decrease in contingent liabilities.

In the circumstances, the accuracy and completeness of the contingent liabilities balance of Kshs.2,797,250 could not be confirmed.

Emphasis of Matter

399. Pending Payables

Note 2 in respect to Other Disclosures to the financial statements reflects other pending payables balance of Kshs.76,080,065 which includes a balance of Kshs.72,918,081 in respect to a debt owed to Vihiga County Assembly Members and Staff Mortgage and Car Loans Scheme Fund as at 30 June, 2022. This debt has been outstanding for a long period and during the year under review, only a minimal repayment of Kshs.3,000,000 was made.

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.

Other Matter

400. 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

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explanation for failure to do so, as part of the contents provided for in the reporting format prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for conclusion

401. Irregularities in the Construction of the Speaker's Residence

Review of project status report as at 30 June, 2023 for the proposed Speaker's residence indicated that Vihiga County Assembly had spent Kshs.34,493,609 on construction of Speaker's Residence. However, review of records indicates that the County Assembly separately contracted a firm at a contract sum of Kshs.19,786,352 to undertake the proposed erection of boundary wall, landscaping and paving at Speakers residence to which an amount of Kshs.15,743,473 had been paid by the time of audit in September, 2023. By the time of audit in September, 2023, the County Assembly had spent a total of Kshs.50,237,082 contrary to the Salaries and Remuneration Commission Circular Ref. No. SRC/TS/COG/6/61/48 VOL.II (64) of 20 May, 2019 which provided a ceiling of Kshs.35 million for the construction of the County Speaker's residence.

Further, the land on which the Speaker's residence stand is 1.15 hectare or 2.87 acres. This contravened the acreage limit of up to 1 acre stated in the Salaries and Remuneration Commission Circular.

In addition, the land on which the Speaker's residence is built indicates that it was purchased from a private owner at 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.

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

402. 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 the one hundred and fifty (150) staff at a contract sum of Kshs.3,600,000. 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 provides that temporary imprests shall be issued mainly in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

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

403. Irregular Subscription to the Payments

Review of expenditure records revealed that Management paid a total of Kshs.5,000,000 to Country Assemblies Forum (CAF) and Kshs.750,000 to the Society of Clerks

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(SOCATT) contrary to Section 37(b) of the Inter-governmental Relations Act, 2 of 2012 which requires operational expenses in respect of the structures and institutions established under the Act to 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.

404. Delay in Completion of Proposed Boundary Wall, Landscaping and Paving at Speaker's Residence

The proposed erection of boundary wall, landscaping and paving at Speaker's residence was awarded 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. Review of the project's technical status report as at 30 June, 2023 indicated that the project was at 80% completion. Further, Management did not provide inspection and acceptance reports to authenticate works done vide interim certificate payment No.2 for Kshs.6,233,144.

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

405. Irregularities in Legal Expenses

Review of documents provided revealed that the County Assembly awarded a contract to a local firm for the proposed design and architectural works at Vihiga County Assembly Headquarters and renovation of office block on 15 April, 2014. However, a dispute arose between the contractor and the client 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 Vihiga 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 year 2021/2022, the County Assembly deposited Kshs.20,000,000 in the joint account. However, the contract agreement was not provided for audit review.

Although the County Assembly had paid the contractor an amount of Kshs.29,856,539 as at the time of audit in November, 2023 as ordered by the court, no evidence of works done was provided for audit review. The court ordered that the decretal sum be deposited into a joint bank account. However, Management did not provide minutes for opening the bank account together with bank statements up to 30 June, 2023 (except for the period March, 2021 to September, 2022) hence, transactions into and out of the bank account could not be verified. The joint bank account at Cooperative Bank of Kenya - (Nairobi Business Centre Branch) was in the name of Patrick Luta and Francis Otieno and not Vihiga County Assembly. The said bank account was an interest earning account. However, the amount of interest earned and how it was accounted for was not provided for audit review. The financial statements indicated that the fixed deposit earned an interest amount of Kshs.336,539 during the year under review, and that the deposit was lifted and all the amounts were credited to the County's books where the amount was recognized as miscellaneous income in the year. However, no record of how the amounts were transferred from the account holders to the County Assembly was provided for audit review.

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In the circumstances, the propriety of the legal expenses could not be confirmed.

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

During the year ended 30 June, 2023, eight (8) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management has not explained the failure to comply with the policy.

In the circumstances, Management contravened the Human Resource Policies.

407. Incomplete Procurement Plan

Review of the procurement plan for the year 2022/2023 revealed that the plan did not have a schedule of the planned delivery, implementation or completion dates of all goods, works or services contrary to Regulation 41(b) of the Public Procurement and Asset Disposal Regulations, 2020. The plan did not indicate whether some procurements were to be procured within a single year period or under a multi-year period contrary to Regulation 41(c) of the Public Procurement and Asset Disposal Regulations, 2020. Further, there was no indication whether any items may be aggregated for procurement as a single package or for procurement through any applicable arrangement for common user items.

In addition, the annual procurement plan was not done in accordance with the format specified in the Third Schedule contrary to Regulation 42 of the Public Procurement and Asset Disposal Regulations, 2020.

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

408. Non-Compliance with Law on Ethnic Composition

Review of records revealed that the total number of employees of the County Assembly was two hundred and thirty-nine (239) out of which two hundred and twenty-seven (227) or 95 % of the total number were members of 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.

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Basis for Conclusion

409. Ineffective Audit Committee

Review of documents revealed that the Audit Committee charter was only a draft which had not been approved and that the Audit Committee only met once to approve the internal audit work plan contrary to Regulation 172(1) of the Public Financial Management (County Governments) Regulations, 2015 which states that the Audit Committee shall meet at least once in every three months. Further, the quarterly report of Internal Audit was prepared for the audited Departments. However, a response and action plan from the Clerk of the County Assembly to the chairperson of the Audit Committee on the recommendations were not provided for audit review.

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

410. Non-Implementation of the Recommendations of Oversight Bodies

During the year under review, Management did not provide reports on Implementation of the Recommendations of Legislative Oversight Committees contrary to Section 31(1)(a) of the Public Audit Act, 2015. Further, the Senate County Public Accounts Committee recommended an investigation to be carried out by the Ethics and Anti-Corruption Commission for failure by the County Assembly's Management to implement recommendations of the Senate's County Public Accounts Committee and the County Assembly's Public Accounts and Investments Committee recommendations and also failure to follow up on the reports of the Auditor-General.

In the circumstances, Management's determination in improving the governance and management of the County Assembly was doubtful.

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COUNTY ASSEMBLY OF BUNGOMA – NO.39

REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

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

Emphasis of Matter

412. Pending Bills

Note 1 and 3 in Other Disclosures reflects a balance of Kshs.34,746,187 and Kshs.91,160,014 in respect of pending accounts payable and other pending payables respectively all totalling Kshs.125,906,201 which were not settled as at 30 June, 2023 but were carried forward to 2023/2024 financial year. No plausible explanation was provided for non-payment of the pending bills before the end of the financial year.

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

My opinion is not modified in respect to this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

413. Non-Compliance with Law on Ethnic Diversity

Review of the County Assembly's staff records for the month of June, 2023 indicated that out of the one hundred and twenty-five (125) permanent employees, one hundred and ten (110) or 88% were from the same 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 the same ethnic community.

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

414. Non-Compliance with One-third Basic Salary Pay Rule

Review of the payroll revealed that employees' salary deductions exceeded two- thirds (2/3) of their basic salary contrary to Section C.1(3) of the Public Service Commission Human Resource Policies, 2016 and Section 19(3) of the Employment Act, 2007 which require that deductions made by an employer from the wages of his employees 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.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

415. Poor Information Communication Technology (ICT) Control Environment

Review of documents provided for audit and physical verification revealed that the server room doors were being opened inwards contrary to the requirements of Section 8.0.2(a) of Government ICT Networks Standards ICTA.2.002:2019 that requires doors of the telecommunication/equipment room to open outward, slide sideways, or be removable.

In the circumstances, the internal controls were not up to the standards required for a Government entity.

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COUNTY ASSEMBLY OF BUSIA – NO.40

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

416. Unauthorized Transfers to Other Government Entity

The statement of receipts and payments reflects transfers to other Government entities amount of Kshs.108,000,000 and as disclosed in Note 4 to the financial statements, relates to transfers to the Car Loan Scheme Fund. However, the amount exceeded the budgeted amount of Kshs.100,600,000 by an amount of Kshs.7,400,000. This was contrary to Section 36(4) of the Public Finance Management (County Governments) Regulations, 2015, which states that funds withdrawn from the County Revenue Fund under this regulation may be utilized only for services for which funds have been provided for in the budget estimates.

In the circumstances, the regularity of expenditure of Kshs.7,400,000 could not be confirmed.

Emphasis of Matter

417. Unsupported Pending Bills

Notes 1 and 2 under Other Important Disclosures in the financial statements reflects pending accounts payable and pending staff payables balance of Kshs.38,445,225 and Kshs.112,228,941 respectively, totalling Kshs.150,674,166.

Failure to settle bills in the year to which they relate adversely affects the budgetary provisions of the subsequent financial years 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

418. Non-Compliance with Law on Ethnic Composition

During the year under review, the County Assembly had a total of one hundred and twenty-seven (127) employees. Out of this, eighty-eight (88) employees or 69%, 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 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.

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REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

419. Inadequate Internal Audit Functions

419.1 Lack of Internal Audit Reports

During the year under review, the County Assembly did not provide any internal audit reports, which would have given assurance on effectiveness of internal controls, overall governance, risk assessment and operations and activities of the County Assembly. Further the internal audit unit operated without an approved annual work plan.

419.2 Failure to Hold Quarterly Meetings

During the year under review, the Audit Committee held only one (1) meeting. This was 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 existence of an effective internal controls, risk management and governance systems in place during the year under review could not be confirmed.

420. IT Internal Control Weaknesses

During the year under review, the County Assembly did not have an IT Steering Committee and IT Security Policy to ensure data confidentiality, integrity and availability. Further, the County Assembly did not have anti-virus and firewall programs on all computers. In addition, the County Assembly did not also have a policy on physical access to IT infrastructure and did not also maintain a risk register.

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

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COUNTY ASSEMBLY OF SIAYA – NO.41

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

421. Misclassification of Expenditure

The statement of receipts and payments reflects an amount of Kshs.285,846,283 in respect to compensation of employees which, as disclosed in Note 3 to the financial statements include basic wages of temporary employees totalling Kshs.36,255,902. However, examination of the payments revealed that expenditure amounting to Kshs.6,318,000 for Ward offices and general office operations was erroneously charged to basic wages of temporary employees.

In the circumstances, the accuracy and completeness of basic wages of temporary employees of Kshs.36,255,902 for the year ended 30 June, 2023 could not be confirmed.

422. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.318,453,668 in respect to use of goods and services which, as disclosed in Note 4 to the financial statements includes an amount of Kshs.113,716,769 under domestic travel and subsistence allowance. Included in the expenditure of Kshs.113,716,769 is an amount of Kshs.1,663,900 indicated as daily subsistence allowance to the County Assembly of Siaya. Management has explained that this amount was paid to Committee Members with no Integrated Financial Management Information System (IFMIS) numbers. However, out of Kshs.1,663,900, an amount of Kshs.770,500 has not been supported.

In the circumstances, the completeness and accuracy of the expenditure on domestic travel and subsistence allowance amounting to Kshs.770,500 could not be confirmed.

423. Unsupported Training Expenses

The statement of receipts and payments reflects an amount of Kshs.318,453,668 in respect to use of goods and services which, as disclosed in Note 4 to the financial statements includes an amount of Kshs.66,525,460 under training expenses. However, review of records provided for audit revealed that included in the expenditure of Kshs.66,525,460 is an amount of Kshs.60,209,610 indicated as daily accommodation allowances paid to members of staff. No evidence was provided to indicate the kind of training and where the beneficiaries of the training attended.

Further, included in the amount of Kshs.60,209,610 is an amount of Kshs.596,400 said to have been paid as accommodation allowances to Siaya County Assembly without disclosing the actual beneficiary.

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In the circumstances, the accuracy, completeness and propriety of the expenditure on training amounting to Kshs.66,525,460 could not be confirmed.

Emphasis of Matter

424. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amount on comparable basis of Kshs.1,320,157,632 and Kshs.1,041,741,656 respectively resulting in under-funding of Kshs.278,415,976 or 21% of the budget. Similarly, the County Assembly spent Kshs.1,042,535,007 against an approved budget of Kshs.1,320,157,632 resulting in an under-expenditure of Kshs.277,622,625 or 21% of the budget.

The under-funding and under-performance 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

425. Delayed Project Implementation

A contract for drilling and equipping of boreholes and construction of water kiosks in twenty-eight (28) ward offices was awarded on 15 October, 2020 at a contract sum of Kshs.117,133,552 for a duration of eight months ending 10 July, 2021. However, on 21 January, 2022 the contract was extended to May, 2022. At the time of audit in November, 2023, the project was still incomplete after making total payments amounting to Kshs.64,836,353.

In the circumstances, value for money may not have been received for Kshs.64,836,353 incurred on the project.

426. Non-Compliance with Law on Ethnic Composition

Analysis of personnel records revealed that the County Assembly had a total of eighty-nine (89) members of staff out of whom seventy-seven (77) or 87% were from the dominant community in the County. This was contrary to Section 7(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 the employment of staff and that no public institution 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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427. Failure to Establish a County Assembly Fund

During the year under review, Management had not established a County Assembly Fund. This was contrary to Section 34(1) of the County Assembly Services 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:-(a) any grants, gifts, donations or bequests,(b) monies from investments of the board and such fees imposed or levies administered by the board and; (c) such monies as may, in the future be appropriated from Revenue Fund established for each county.

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

428. Late Remittance of Statutory Deductions

During the year under review, the County Assembly of Siaya made late remittances of statutory deductions for the months of July, September and October, 2022. Pay As you Earn (PAYE) and National Hospital Insurance Fund (NHIF) deductions for the month of July, 2022 was remitted on 29 August, 2022, while National Social Security Fund (NSSF) deductions for the month of September, 2022 was remitted on 23 March, 2023. In addition, NSSF deductions for the month of October, 2022 was remitted on 29 December, 2022.

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), (g) and (h) shall pay the amount deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be.

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

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

Analysis of the payroll data for the year ended 30 June, 2023, revealed that eight (8) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. This may expose the staff to pecuniary embarrassment.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

430. Lack of Data Backup System

Review of the systems in place at the County Assembly of Siaya revealed that there is no evidence of data backup system for its data which could lead to loss of business continuity.

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In the circumstances, business continuity may be at risk in case of a disaster.

431. Salaries Paid Outside the Integrated Personnel and Payroll Database (IPPD) System

The statement of receipts and payments reflects compensation of employees' balance of Kshs.285,846,283 as disclosed in Note 3 to the financial statements. The balance includes basic wages of temporary employees totalling Kshs.36,255,902 out of which Kshs.16,274,350 relates to salaries to Ward offices staff paid through manual payment vouchers outside the Integrated Personnel and Payroll Database (IPPD) Management System. This contravened The National Treasury Circular No.9/2017, which requires personnel emoluments to be controlled in the public personnel database and supported by IPPD.

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

432. Incomplete Non-Current Assets Register

Annex 2 to the financial statements reflects a summary of fixed asset register with a balance of Kshs.879,710,278 as at 30 June, 2023. However, the Assembly's asset register was incomplete and did not have information such as asset value, description, serial number, tag number, make/model, suppliers name, original location, current location and the officer responsible for each asset and asset condition. In addition, physical verification of the asset additions during the year under review revealed that they were not tagged to confirm their ownership by the County Assembly.

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

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COUNTY ASSEMBLY OF KISUMU – NO.42

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

433. Unconfirmed Travel and Subsistence Allowance

The statement of receipts and payments reflects an amount of Kshs.338,905,188 in respect to use of goods and services, which as disclosed in Note 3 to the financial statements includes an amount of Kshs.125,386,629 incurred on domestic travel and subsistence allowances. However, review of the expenditure revealed that an amount of Kshs.9,705,000 was paid to four (4) members of staff as daily subsistence allowances. The amount exceeded an average of Kshs.2,000,000 per year, an indication that the members of staff were paid allowances for between 100 and 186 days a year, which appear impractical considering that most of the work of the County Assembly is legislative and concentrated in the County Assembly. In addition, an amount of Kshs.26,317,246 was paid to a travel agent and three (3) hotel companies. It is however, not clear how the services of the hotels were procured.

Further, included in the amount for use of goods and services, is expenditure totalling Kshs.19,198,416 incurred on foreign travel and subsistence allowance. However, there were eighty-one (81) payments for overseas travel out of which, sixty-three (63) of the travel occurred in the month of May. No explanation was provided for these unusual transactions.

In the circumstances, the accuracy, completeness and regularity of the expenditure of Kshs.55,220,662 on travel and subsistence allowance could not be confirmed.

434. Voided Transactions

The IFMIS report indicates that payments totalling one hundred and forty-seven (147) transactions in IFMIS amounting to Kshs.132,077,994 were voided. However, supporting documents such as the voided payment vouchers, request to void payments, the National Treasury approval and Exchequer requisitions from the Controller of Budget (COB) were not provided for audit. The voided transactions may have been irregularly processed to pay transactions not approved by the Controller of Budget.

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

Emphasis of Matter

435. Pending Bills

Annex 1 on Other Disclosures to the financial statements, reflects pending accounts payable totalling Kshs.19,433,977 (2022: Kshs.19,890,469) as at 30 June, 2023.

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Management has not explained why the bills were not settled during the year when they occurred.

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

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

436. Irregular Payment to County Assemblies Forum (CAF)

The statement of receipts and payments reflects an amount of Kshs.338,905,188 in respect to use of goods and services which, as disclosed in Note 3 to the financial statements includes Kshs.56,085,019 spent on other operating expenses which further includes Kshs.9,000,000 paid to County Assemblies Forum. However, This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which states that the operational expenses in respect of the structures and institutions established by 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.

437. Non-Compliance with the One Third Rule on Salary Deductions

During the year ended 30 June, 2023, eight (8) employees earned a net salary of less than a third (1/3) of the 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. The Management has not given explanation for failure to comply with the law.

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

438. Non-Compliance with Guidelines on Acting Positions

Analysis of the IPPD payroll data revealed that one (1) officer has been in an acting position for a period exceeding six (6) months contrary to Section C.14(1) of the Public Service Commission Human Resource and Procedures Manual, 2016 which provides that an officer may be appointed in an acting capacity, for a period of at least thirty days but not exceeding a period of six (6) months.

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

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Basis for Conclusion

439. Failure to Adhere to Human Resource Requirements

Review of human resource records revealed that, the County Assembly Service Board did not prepare Human Resource Plans and Annual Recruitment Plans contrary to Policies No.10 and No.11 of the County Assembly Human Resource Policies and Procedures Manual, 2018. In addition, review of the Kisumu County staff establishment revealed that the County Assembly did not fill in twelve (12) vacant positions in the approved establishment for various Departments.

In the circumstances, Management may not achieve the intended goals and objectives in the strategic plans without the requisite number of staff.

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

Review of the payroll records revealed that processing of the payroll was done through the IPPD and manual systems resulting to salaries and allowances for twenty-two (22) staff and three (3) Members of County Assembly (MCAs) being managed and processed by use of MS Excel throughout the year under review. Further, all ward employees paid outside IPPD had not obtained birth certificates, a document that is a pre-requisite for registration of human resource in the Integrated Personnel and Payroll Database System (IPPD).

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

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COUNTY ASSEMBLY OF HOMA BAY– NO.43

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

441. Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.385,865,889 in respect of use of goods and services as disclosed in Note 4 to the financial statements. However, review of the expenditure records revealed the following anomalies:

441.1 Unsupported Foreign Travel

The balance includes foreign travel and subsistence amounting to Kshs.5,328,777 as disclosed in Note 4 to the financial statements. However, the expenditure was not supported by copies of visas, air tickets, boarding passes, and back to office reports. Further, the amount includes Kshs.2,262,225 which was disbursed to seven (7) MCAs as travel allowance while attending Lake Victoria Region Local Authority Co-operation (LVRLAC) meeting at Mbarara City in Uganda from 10 April, 2023 to 15 April, 2023. However, documents such as invitation, program of activity or agenda and signed attendance list were not provided.

441.2 Unsupported Domestic Travel and Subsistence and Expenditure on Committee Meetings

The use of goods and services expenditure includes domestic travel and subsistence amounting to Kshs.214,265,794 as disclosed in Note 4 to the financial statements. The amount includes Kshs.832,000 paid to sixteen (16) Members of County Assembly (MCAs) as travel allowances to facilitate carrying out report writing exercise in Kisumu for the Department of Lands, Housing, Physical Planning from 31 October, 2022 to 2 November, 2022. However, the expenditure was not supported by Speaker's approval, program activity or agenda and attendance list. Further, no documentary evidence in support of tabling of the Lands, Housing, Physical Planning Committee report in the County Assembly.

In the circumstances, the accuracy and completeness of amounting to Kshs.6,160,777 could not be confirmed.

442. Unsupported Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents amounting to Kshs.13,211,822 as further disclosed in Note 10 to the financial statements. Review of cashbooks, bank statements and bank reconciliation statements revealed that the bank reconciliation statements for Central Bank of Kenya-Development Account and Recurrent Account with balances of Kshs.18,150,327 and Kshs.15,150,217 respectively as at 30 June, 2023 were not provided for audit. Further, review of the Central Bank of

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Kenya (CBK) recurrent bank account statement revealed a transfer of Kshs.1,474,632 dated 31 March, 2023 to Equity Bank Operation that had not been recorded in the cash book and therefore misstating the cash book balance.

Further, the bank reconciliation statement for a Commercial Bank Account reflects payments in cash book not yet recorded in bank statement amounting to Kshs.2,063,437 made on 30 June, 2023. However, the supporting payment vouchers and a subsequent bank statement were not provided for audit. Further, review of the Operation cash book revealed receipts of Kshs.6,201,000 which could not be traced to the bank statement.

In addition, the County Assembly Service Board, according to the Board minutes dated 4 December, 2022 and with the approval of County Treasury on 21 December, 2022 resolved and opened a Salaries Account at Kenya Commercial Bank. This was contrary to Regulation 82(b) of the Public Finance Management (County Governments) Regulations, 2015, which requires all county government bank accounts to be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash.

In the circumstances the accuracy and completeness of the cash and cash equivalents balance of Kshs.13,211,822 could not be confirmed.

Emphasis of Matter

443. Long Outstanding Pending Bills

Other disclosures Note 1 to the financial statements reflects pending accounts payable amounting to Kshs.84,561,418 as disclosed in Annex 1 to the financial statements which were not settled in the year under review. Further, the amount includes Kshs.79,195,935 relating to 2022-2023 financial year. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that debt service payments shall be a first charge on the County Revenue Fund. Further, records from the Kenya Revenue Authority indicate that the County Assembly of Homa Bay owed the Authority Kshs.433,616,523.

Failure to settle bills during the year in which they relate distorts the financial statements for the year 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.

Other Matter

444. Unresolved Prior Year Matters

In the audit report of the previous year, nineteen (19) issues were raised under 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 has not resolved the issues or given any explanation for the delay in resolving the issues.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis of Conclusion

445. Non-Compliance with the One Third Rule on Salary Deductions

Review of the payroll revealed that twenty-three (23) employees earned net salary of less than a third of their respective basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007, which states that the total amount of deductions from 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.

446. Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amounting to Kshs.385,865,889 as disclosed in Note 4 to the financial statements. Review of records revealed the following:

446.1 Irregular Expenditure on Domestic Travel and Subsistence

The use of goods and services expenditure includes domestic travel and subsistence amounting to Kshs.214,265,794 as disclosed in Note 4 to the financial statements. The amount includes Kshs.12,065,206 paid to staff, Members of the County Assembly (MCAs) and Members of the County Assembly Service Board (MCASB) to enable them attend an induction workshop in Mombasa. This was contrary to National Treasury, Circular No.20/2015 of November, 2015, which require all accounting officers to hold all workshops and retreats within the precincts of the duty station where most of the participant's work.

In the circumstances, value for money on the expenditure of Kshs.12,065,207 could not be confirmed, and Management was in breach of the law.

446.2 Irregular Expenditure on Team Building

The use of goods and services expenditure includes hospitality supplies and services amount of Kshs.29,780,538 as disclosed in Note 4 to the financial statements. The amount includes Kshs.4,900,000 expenditure incurred on team building exercise in Kisumu City. This was contrary to the Treasury Circular No.20/2015 of 4 November, 2015 which require all accounting officers to hold all workshops and retreats within the precincts of the duty station where the majority of participant's work.

In the circumstances, Management was in breach of the law and value for money on the expenditure of Kshs.4,900,000 could not be confirmed.

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447. Other Payments

447.1 Avoidable Expenditure on Tax Penalties

The statement of receipts and payments reflects other payments amounting to Kshs.62,720,792 as further disclosed in Note 9 to the financial statements. The amount includes KRA Agenda Notices totalling Kshs.46,526,162 in respect of penalties payable to Kenya Revenue Authority for non-remittances of Pay-As-You–Earn (PAYE) and other taxes. However, Management did not provide a plausible explanation for the delayed deductions and remittances of statutory obligations resulting in the avoidable penalties totalling Kshs.46,526,162.

In the circumstances, Management did not obtain value for money on the penalties on the statutory dues.

447.2 Irregular Payment to Society of Clerks-at-the Table in Kenya (SOCATT (K))

The other payments expenditure includes subscriptions totalling Kshs.500,000 in respect of payment to Society of Clerks-at-the-Table in Kenya (SOCATT(K)) as disclosed in Note 9 to the financial statements. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which requires operational expenses of the institution established under the Act to be required by the National Government.

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

448. Stalled Construction of Automated Gate House at Homa Bay County Assembly

The County Assembly Service Board entered into a contract for the construction of an automated gate house at Homa Bay County Assembly at a contract sum of Kshs.7,112,260 for a contract period of one (1) month ending on 21 June, 2020. The contractor had been paid Kshs.4,000,000 as at 30 June, 2022. An audit inspection of the project on 22 November, 2023 revealed that windows and glazing, doors, internal finishes, external finishes, electrical installations and joinery fittings had not been completed. Further, the contractor was not on site.

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

449. Stalled Construction of Homa Bay County Assembly Office Block

The County Assembly Service Board contracted a company on 10 July, 2019 for the construction of an office block at a contract sum of Kshs.348,927,840. The work which was expected to be completed by 8 January, 2021 was later extended to 8 April, 2022. Review of records revealed that the contractor had been paid a total of Kshs.66,714,925.

However, physical inspection of the project on 22 November, 2023 and review of records in respect of the project revealed that the work on the project had been completed over

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one year after completion date substructure. Further, the contractor was not on site and no work was ongoing at the site.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

450. Weak Controls Over Inventory Management

Review of store records revealed that the County Assembly did not conduct quarterly and annual stock takes for the financial year 2022/2023. In addition, there were no mechanisms put in place to track inventory items at issuance and at handover date by various users who had left the County Assembly.

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

451. Fixed Asset Balance

Annex 2 to the financial statement reflects summary of non-current asset register historical cost totalling Kshs.230,791,150. However, the amount was not supported with an updated asset register.

In the circumstances, the existence of a mechanism to safeguard public resources could not be confirmed.

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COUNTY ASSEMBLY OF MIGORI – NO.44

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

452. Compensation of Employees

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

The statement of receipts and payments reflects compensation of employees' payments of Kshs.364,806,447 and as disclosed in Note 3 to the financial statements, which includes salaries amounting to Kshs.99,590,427 paid to two hundred and fifteen (215) employees outside the Integrated Personnel and Payroll Database (IPPD) system. However, Management did not provide a satisfactory explanation for failure to pay the concerned officers through the IPPD. The use of the manual system requires manual calculation of deductions, net pay and constant monthly and/or annual updates of the data manually which is prone to error or manipulations.

In the circumstances, the accuracy, completeness and propriety of the expenditure of Kshs.99,590,427 for the year ended 30 June, 2023 could not be confirmed.

453. Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.394,180,140 as disclosed in Note 4 to the financial statements. However, audit of this expenditure revealed the following unsatisfactory matters:

453.1 Utilities, Supplies and Services

The balance includes utilities, supplies and services amount of Kshs.4,944,978 out of which an amount of Kshs.3,518,193 was not supported by complete payment voucher.

453.2 Domestic Travel and Subsistence

Further, the balance includes domestic travel and subsistence amount of Kshs.233,007,662. However, the latter amount differs with Kshs.232,626,017 reflected in the supporting ledger, resulting in a variance of Kshs.381,645 which has not been explained or reconciled. Examination of sampled payment vouchers in respect to domestic travel and subsistence allowance amounting to Kshs.96,494,235 revealed that the vouchers lacked key supporting documents such as approvals, imprest warrants, evidence of travel and back to office reports.

453.3 Foreign Travel

In addition, the balance includes foreign travel and subsistence amount of Kshs.21,218,901 out of which an amount of Kshs.1,650,388 was paid to four officers to attend a five (5) day conference in Ethiopia between 26 and 30 April, 2023. However, copies of visa for the return journey, boarding passes, back to office reports, the

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approved rates of payment and a computation of the amount payable to each individual were not provided for audit, casting doubt on how the amounts paid were arrived at.

The foreign travel and subsistence amount of Kshs.21,218,901 also includes Kshs.3,882,331 which, according to the documents provided for audit was paid to members in respect of Lake Victoria Region Local Authorities Cooperation (LVRLACC) Annual General Assembly held in Mbarara City in Uganda between 10 and 15 April, 2023. However, evidence of travel such as boarding passes for each participant, and approved rates of payment and workings for the specified amounts paid to each participant were not provided for audit.

Further, the foreign travel and subsistence amount of Kshs.21,218,901 includes the payments amounting to Kshs.3,262,835 whose respective payment vouchers and relevant supporting documentation, including approved rates of payment, computation of amount payable to each individual, invitation to the activity, boarding passes, return visa and back to office reports were however not provided for audit.

453.4 Training Expenses Travel

The balance also includes training expenses amount of Kshs.6,545,800 out of which an amount of Kshs.6,124,482 was not supported by approvals, imprest warrants and evidence of travel. Further, Management did not provide imprest records in respect to cash advanced to the beneficiaries and the surrender documentation on the same, casting doubt on how the amount was advanced and accounted for.

In addition, expenditure on air ticketing services was not supported by requisition from user departments, procurement records such as original bid documents, evaluation of bids, appointments to evaluation committee, minutes, award, and notification to the successful service provider and contract documents. Further, there was no evidence that local purchase orders (L.P.O) were raised.

In the circumstances, the accuracy, completeness and propriety of the expenditure of Kshs.6,124,482 could not be confirmed.

453.5 Office and General Supplies and Services

The balance includes office and general supplies and services amounts of Kshs.8,929,855 out of which amount of Kshs.5,361,170 was not supported by payment vouchers and other related documents.

In the circumstances, accuracy, completeness and propriety of the expenditure of Kshs.5,361,170 could not be confirmed.

453.6 Other Operating Expenses

The amount of Kshs.394,180,140 also includes other operating expenditure of Kshs.50,634,695, However, supporting ledgers/schedules reflects an amount of Kshs.48,883,320, resulting to unexplained/unreconciled variance of Kshs.1,751,375. Further, the amount of Kshs.50,634,695 differs with total payments of Kshs.22,917,213 reflected in the payment vouchers provided for audit, resulting in a variance of Kshs.27,717,482 whose payment vouchers were not provided for audit. In addition, the

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amount of Kshs.50,634,695 includes an amount of Kshs.7,729,696 whose payment vouchers did not have any supporting documents.

Further, operating expenditure amount of Kshs.50,634,695 includes legal expenses of Kshs.16,691,052 whose supporting documents such as appointments of four (4) legal firms were not provided for audit. Further, evidence of the procurement process leading to the selection of the four (4) law firms have not been provided for audit.

In the circumstances, the accuracy, completeness and propriety of the expenditure of Kshs.50,634,695 could not be confirmed.

453.7 Routine Maintenance

The amount of Kshs.394,180,140 includes routine maintenance-other assets amount of Kshs.9,132,139 out of which amount of Kshs.5,756,059 relates to maintenance of plant, equipment, buildings and stations. However, payment vouchers, local service orders (L.S.O), invoices, counter receipt vouchers (Form S13), delivery notes, inspections and acceptance reports in support of the latter amount were not provided for audit.

Further, the balance of Kshs.9,132,139 includes expenditure on accessories for ICT equipment and repair of computers amounting to Kshs.1,358,110 whose supporting procurement documentations such as local purchase order, delivery note, invoices, counter receipt voucher (Form S13), counter requisition and issue voucher (Form S11) were not provided for audit review.

In the circumstances, accuracy, completeness and propriety of the expenditure amounting to Kshs.394,180,140 in respect of use of goods and services could not be confirmed.

454. Unsupported Procurement of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.40,353,650 as disclosed in Note 6 to the financial statements. However, Management did not provide procurement documentations like advertisement, evaluation reports, award notifications, acceptance letters, contracts, payment certificates, LPOs and invoices to support the amount.

Further, the amount includes expenditure on purchase of ICT equipment amounting to Kshs.1,752,758 which further includes an amount of Kshs.1,358,110 whose supporting procurement documentations such as local purchase order, delivery note, invoices, counter receipt voucher (Form S13), counter requisition and issue voucher (Form S11) were not provided for audit.

In the circumstances, accuracy, completeness and propriety of the expenditure of Kshs.40,353,650 could not be confirmed.

455. Unsupported Cash and Cash Equivalent

The statement of financial assets and liabilities and as disclosed in Note 8 to the financial statements reflects cash and cash equivalents balance of Kshs.1,810. However, review of the cash books, bank statements, bank reconciliation statements and bank balance certificates revealed that the financial statements reflects a Kshs.Nil

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balance for the CBK Migori County Assembly recurrent account, while the cash book and certificate of bank balance show balances of Kshs.390,686 and Kshs.35,230,913 respectively. However, bank reconciliation statements for July, 2022 to June, 2023 were not provided for audit to support the Kshs.Nil balance.

Further, reflects a Kshs.Nil balance for the CBK Migori County Assembly development account, while both the cash book and certificate of bank balance show a balance Kshs.404,658, resulting in an unreconciled variance of Kshs.404,658 whose bank reconciliation was provided for audit review.

In addition, the Board of surveys were not provided; for CBK Migori County Assembly recurrent account, CBK Migori County Assembly development account and KCB operations account to support the cash book end year closing balances.

In the circumstances, accuracy of the cash and cash equivalents balance of Kshs.1,810 as at 30 June, 2023 could not be confirmed.

456. Misclassification of Cost of Work Not Yet Done as Pending Bill

Note 1 under Other Disclosures to the financial statements reflects pending accounts payable balance carried forward amount of Kshs.106,159,756 which includes an amount of Kshs.15,596,365 in respect of a contract for supply, installation, configuring, testing, commissioning, customizing and administering an ERP system. The project was at a contract sum of Kshs.36,894,960, inclusive of user training cost and at a contract period of one year starting on 27 April, 2022 and ending on 26 April, 2023. As at the time of the audit (August, 2023), contractor had done 75% of the work in that the software had not been fully developed and had not been installed. The contract period had expired and there was no evidence of extension of period. Further, cumulative payments of Kshs.21,298,594 had been made to the contractor as at 3 May, 2023. This amount had fully covered the works done and, therefore, there was no pending bill.

In the circumstances, the accuracy of the pending accounts payable balance Kshs.106,159,756 for the year ended 30 June, 2023 could not be confirmed.

457. Unsupported Voided Payments

Review of the Integrated Financial Management Information System (IFMIS) payments data revealed that 70 transactions of amount of Kshs.57,919,195 were voided during the year 2022/2023 despite having been approved by the Controller of Budget. Management has not provided reasons for voiding these payments and its current status.

In the circumstances, the status of the voided transactions could not be confirmed.

Emphasis of Matter

458. Long Outstanding Accounts Payable

Note 1 under Other Important Disclosures to the financial statements on pending accounts payable, reflects balance carried forward of Kshs.106,159,756 which has been outstanding for more than twelve months. No explanation has been provided for delayed settlement of these long outstanding bills.

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In the circumstances, County Assembly risks being sued by suppliers, which may lead to the incurring additional legal costs and penalties and interests on late payments.

459. Non-disclosure of Kenya Revenue Authority (KRA) Debt

Records reviewed showed that the County Assembly of Migori owed the Kenya Revenue Authority an amount of Kshs.323,559,210. However, Management did not disclose this debt as pending accounts payable.

In the circumstances, accuracy and completeness of the pending account payable balance of Kshs.106,159,756 could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

460. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

461. Compensation of Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects amount of Kshs.364,806,447 in respect of compensation of employees. However, the following anomalies were noted**:**

462. Non-compliance with a Third of Basic Pay Rule

An analysis of the County Assembly's payroll for the month of June, 2023 revealed that twenty-one (21) employees' net pays were below a third of their respective basic salaries, contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deductions from 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.

463. Irregular Payment of County Assembly Service Board Committee Allowances

The statement of receipts and payments reflects an amount of Kshs.364,806,447 in respect of compensation to employees which includes amount of Kshs.10,384,873 in respect of one thousand and thirty-eight (1,038) committee meetings. However, an

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amount of Kshs.1,851,744 was paid to four (4) Committee members in excess of the maximum limit recommended in the SRC Circular Ref.SRC/TS/CGOVT/3/61/Vol. IV (49).

In the circumstances, the regularity of the expenditure of Kshs.1,851,744 could not be confirmed.

464. Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.394,180,140 as disclosed in Note 4 to the financial statements. The following unsatisfactory matters were noted:

464.1 Irregular Subscriptions to the County Assembly Forum (CAF)

The balance of Kshs.394,180,140 includes operating expenses amount of Kshs.50,634,695 out of which, an amount of Kshs.1,000,000 was paid as a subscription fee to the County Assembly Forum. However, the law requiring the payment was not provided for audit.

In the circumstances, regularity of the expenditure of Kshs.1,000,000 could not be confirmed.

464.2 Non-Compliance with Laws on Imprest Management

The amount of Kshs.394,180,140 also includes domestic travel and subsistence, and foreign travel and subsistence amounts of Kshs.233,007,662 and Kshs.21,218,901 respectively, totalling Kshs.254,226,563. However, examination of sampled payments amounting to Kshs.104,875,348 revealed that the payments were not supported by imprest warrants, and therefore the purpose of the imprest issued could not be confirmed. This was contrary to Regulations 91(2) and 93(1) of the Public Finance Management (County Governments) Regulations, 2015, which require formal application of imprest through an imprest warrant, and that imprest shall be issued for a specific purpose as stated on the imprest warrant. Further, Management did not maintain an imprest register as required by Regulation 93(4) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management was in breach of the law and the regularity of the expenditure of Kshs.254,226,563 could not be confirmed.

464.3 Avoidable Legal Fees

The statement of receipts and payments reflects use of goods and services amount of Kshs.394,180,140 which, as disclosed in Note 4 to the financial statements, includes other operating expenses amount of Kshs.50,634,695 out of which, Kshs.16,691,052 was spent on legal fees. However, the following anomalies were noted:

i. The County Assembly was given a fee note for Kshs.2,040,000, being legal fees relating to a case where one of the contestants in the election of the Speaker of the County Assembly petitioned the outcome of the election in the year 2017, claiming that the standing order procedures in the election were violated. The Court ruled in

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favor of the petitioner. Had the standing order procedures been adhered to, there would have been no petition and, therefore, the legal expenditure (fee note) of Kshs.2,040,000 would have been avoided.

ii. A company that supplied the County Assembly with assorted goods worth Kshs.6,759,400, sued the County Assembly for failure to pay for the supplies. The court ordered the County Assembly to pay the debt and the supplier's advocate gave the County Assembly a fee note of Kshs.675,940, being debt collection fee. Had the County Assembly paid for the goods, the supplier would not have taken the matter to court and, therefore, the County Assembly would not have been required to pay the fee of Kshs.675,940.

iii. A hotel sued the County Assembly, seeking to be paid for hospitality services rendered to the County Assembly. The Court ruled in favour of the hotel and ordered the County Assembly to pay the Hotel. As a result, the Assembly incurred a legal fee of Kshs.257,735 which would have been avoided had the County Assembly paid for the hospitality services in time.

In the circumstances, value for money incurred of Kshs.2,973,675 could not be confirmed.

465. Stalled Projects - Abandoned

Examination of project files and physical verification of projects conducted in August, 2023 revealed that four (4) projects; one (1) started in the financial year 2014/2015 and three (3) in 2015/2016, were incomplete and had been abandoned. However, an amount of Kshs.11,136,806 had been paid.

Management did not provide a satisfactory explanation on how the projects would eventually be completed.

In the circumstances, value for money incurred of Kshs.11,136,806 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

466. Lack of Approved Human Resource Instruments

During the year ended 30 June, 2023, Migori County Assembly Service Board failed to formulate schemes of service setting out the terms and conditions for the appointment of the officers and other staff to the Service, providing for (a) the appointment and confirmation in appointment of officers and other staff; (b) promotions, resignations and termination of appointments; (c) secondment of staff and transfer of service; (d) the scales of salaries and allowances; and (e) the designation and grades of officers and other staff as per Section 25(1) of the County Assembly Service Act, 2017. In addition, Migori County Assembly does not have an approved staff establishment, as a result, Management failed to develop a human resource plan indicating the optimal staffing levels and skills required.

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In the circumstances, it was not possible to confirm whether the County Assembly has an optimal staffing level with the required skills.

467. Irregular Full Payment of Salaries to Employees with Disciplinary Cases

Review of documents provided for audit review revealed that during the year under review, the County Assembly had two (2) employees on interdiction, pending investigations and one employee on dismissal. The two employees while on interdiction were to be paid half salary, full house allowances, medical allowances or where applicable medical insurance premium remitted. However, as at the time of audit in July, 2023, the three (3) cases had not been concluded and the employees continued to receive full salaries and allowances. Management has explained, without providing evidence, that one of the interdicted staffs is on half salary and that the one on dismissal went to court and got a reprieve on the status quo until the matter is determined and concluded.

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

468. Irregular Recruitment of Ward Employees

Review of documents provided for audit revealed that during the year under review, Members of the County Assembly directly employed one hundred and seventy-seven (177) ward staff without involving County Assembly Service Board, the body mandated to recruit County Assembly staff in a process that is open, transparent, and fair. In addition, the ward staff were hired without signed contract agreements detailing their duties and functions.

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

469. Failure to Carry Out Quarterly and Annual Stock Takes

Management did not provide quarterly, and annual stock take reports in respect of the financial year ended 30 June, 2023. This was an indication that Management did not carry out quarterly and annual stock takes of the County Assembly's inventories. As a result, there were no mechanisms put in place to track the inventory items at handover date by various users contrary to Section 162(2) of Public Procurement and Asset Disposal Act, 2015 which states that the head of a procurement function shall arrange for occasional visits or inspection to the stores, at least quarterly in each calendar year and conduct quarterly and annual inventory and stock taking to ensure compliance with all respective governing laws and submit the report to the accounting officer.

In the circumstances, effectiveness of stores procedures in safeguarding stocks could not be confirmed.

470. Inadequate Staffing of Internal Audit Unit

During the year under review, the internal audit unit was staffed with only one officer against the required three as prescribed in the departmental chart. In addition, the head

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of internal audit did not provide any audit report conducted on key departments of procurement and finance during the year under review.

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

471. Failure to Maintain an Asset Register

As previously reported, Annex 3 to the financial statements reflects non-current assets with a historical cost balance of Kshs.459,410,908. However, review of the assets records revealed the following anomalies: -

i. Management did not maintain a fixed asset register in the prescribed format contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulation 2015. The asset register in place lacked identification or serial numbers, acquisition date, description of the asset, location, class and cost of the acquisition. In addition, the register of land did not have a recording of each parcel of land and the terms on which it is held, with reference to conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, leasehold terms, maintenance contracts and other pertinent management details as required by Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015.

ii. Management had not taken over and or reported assets and liabilities inherited from the defunct Local Authorities.

iii. Management had not yet established policies and procedures on asset management as required by Part XII of Public Finance Management (County Governments) Regulations 2015. In addition, the assets are not tagged or coded for ease of identification or tracking.

iv. Fixed assets were not physically inspected on a regular basis to establish their conditions.

In the circumstances, the existence and/or effectiveness of internal controls over management of non-current assets could not be confirmed.

472. Lack of Risk Management Policy and Management Framework

As previously reported, review of the risk management framework revealed that 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.

In addition, there was no documentary evidence to confirm that the County Assembly conducted a risk assessment to identify potential risk exposure, possibility of their occurrence and their mitigating strategies, contrary to Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015, which provides that “an accounting officer of a County Government entity shall develop risk

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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 effectiveness of internal controls over management of risks could not be confirmed.

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COUNTY ASSEMBLY OF KISII – NO.45

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

473. Unsupported Car Reimbursement to the Members of the County Assembly

The statement of receipts and payments reflects compensation of employees amount of Kshs.731,572,764 which, as disclosed in Note 4 to the financial statements, includes personal allowances paid as part of salary amount of Kshs.319,990,156 out of which, Kshs.154,840,000 was paid as car reimbursements to the Members of the County Assembly (MCAs). However, review of the approved budget revealed that the allocation did not indicate the item code while in the vote book, the expenditure was accounted for under compensation of employees.

Further, the latter amount includes Kshs.145,992,000 of which, Management did not provide supporting documents, including separate Forms A, schedule of the intended beneficiaries, valuation and inspection reports, sale agreements, invoices, receipts and log books to support the latter amount. Similarly, an amount of Kshs.8,848,000 reimbursed to four (4) MCAs was not supported with Forms A and ETR receipts.

In addition, review of records revealed that the County Assembly through a special sitting requested for additional funds of Kshs.157,052,000 towards car purchase allowances in the supplementary budget, against the Controller of Budget's advice through a circular that the expense be charged in the ensuing years.

In the circumstances, the accuracy, completeness and regularity of the car reimbursement amount of Kshs.154,840,000 could not be confirmed.

Emphasis of Matter

474. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development reflects final budgeted receipts and actual on comparable basis amounts of Kshs.1,509,980,447 and Kshs.1,316,794,471 respectively, resulting to underfunding of Kshs.193,185,976 (or 13% of the budget). Similarly, the County Assembly spent Kshs.1,312,588,623 against an approved expenditure budget of Kshs.1,509,980,447, resulting in an under-expenditure of Kshs.197,391,824 (or 13% of the budget).

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

475. Pending Bills

Note 1 to the financial statements on pending accounts payable, under other disclosures, reflects balance brought forward as at 1 July, 2022 of Kshs.28,136,619, addition for the year of Kshs.32,524,182, paid during the year of Kshs.42,554,501 and balance carried

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forward as at 20 June, 2023 of Kshs.18,106,300. However, examination of the supporting documents revealed that out of the opening balance of Kshs.28,136,619, bill totalling Kshs.25,812,149 were paid during the year, while the remaining balance of Kshs.2,324,470 was carried forward to 2023-2024 financial year, contrary to the provision of Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which provides that debt service payment shall be a first charges on the County Revenue Fund.

In addition, records from the Kenya Revenue Authority indicate that the County Assembly of Kisii owed the Authority Kshs.358,338,085. However, annexure 1 on pending bills does not disclose the unpaid debts to KRA. No satisfactory explanation was provided on the debt exposure and management plan to clear the debt could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

476. Prior Year Unresolved Issues

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

477. Irregular Employment of Ward Staff

Review of records revealed that the County Assembly paid salaries and allowances amounting to Kshs.5,175,324 to two hundred and five (205) ward staff recruited during the year under review. However, no evidence was provided to show that the recruitments were approval and confirmed by the County Assembly Service Board. Further, 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 25(1) (a) of the County Assembly Service Act, 2017, which provides that the County Assembly Service Board is responsible for the appointment and confirmation in appointment of officers and other staff.

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

478. Irregular Payments of Benefits to the Suspended County Assembly Clerk

Review of records revealed that the County Assembly paid salaries and allowances amounting to Kshs.3,535,960 to the County Assembly Clerk who had been suspended from his duties on 24 August, 2022 pending investigations. This was contrary to Paragraph K.7 (2) of the Human Resource Policies and Procedure Manual for the Public Service 2016 which stipulates that where an officer is suspended from the exercise of the

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functions of his public office, he/she shall be entitled to full house allowance, medical benefits and no basic salary.

In the circumstances, Management was in breach of the guidelines of the Human Resource Policies and Procedure Manual for the Public Service 2016.

479. Non-Compliance with Law on Ethnic Composition

Review of records revealed that the County Assembly had four twenty-five (425) employees, out of which four hundred and fourteen (414) or 97% were from the dominant ethnic community, contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008, which requires that a public establishment shall seek to represent the diversity of the people of Kenya in employment of staff.

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

480. Delayed Construction of Ward Office at Bogiakumu

Review of documents revealed that the contract for the construction of Bogiakumu Ward Office was awarded to a local contractor on 24 January, 2019 at a contract sum of Kshs.7,350,465. The site handing over was done on 2 September, 2021 with expected completion date of 2 February, 2022. During the year the contractor was paid an amount of Kshs.1,766,963 while the previous year Kshs.4,237,326 had been paid to the contractor, bringing the total payments on the contract to Kshs.6,004,289.

However, physical inspection on 3 August, 2023 revealed that the project was incomplete as external works and paintings had not been done. Further, Management did not provide for audit the revised work plan and there was no evidence of contract extension as the previous contract had lapsed.

In the circumstances, value for money on the expenditure of Kshs.6,004,289 incurred on the project could not be confirmed.

481. Construction of Official Residence of the Speaker

Management awarded the contract for the construction of Kisii County Assembly Speaker's residence at a contract sum of Kshs.32,970,110 to a local contractor. Although, Management has not paid the contractor during the year under review, the progress report dated 1 October, 2023 shows an overall actual progress of 18%, against time elapsed of 28%, an indication that the contractor was behind schedule. Further, Management did not provide for evidence that it owns the land on which the residence was being constructed.

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

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

Basis for Conclusion

482. Lack of Approved Risk Management Policy

During the year under review, the County Assembly did not have an approved Risk Management Policy and Framework. It was further noted that Management did not carry out risk assessment, come up with a risk register and develop risk management strategies. A system of risk management and internal control builds robust County Assembly operations.

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

483. Lack of ICT Policies, Plans and Procedures

Review of the Information Communication Technology (ICT) environment revealed the County Assembly did not have an ICT Policy and ICT Security Policy. In addition, the County Assembly lacked an ICT Steering Committee and an ICT Strategic Plan to formulate policies and advice on ICT investment priorities.

Further, the County Assembly did not have a Business Continuity Plan or Disaster Recovery Plan in place for its information systems.

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

484. Failure to Tag Assets

Audit review of the asset register presented for audit for financial year 2022/2023 revealed that Management did not tag its assets to ensure that proper control systems exist for assets and that movement and conditions of assets can be tracked.

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

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COUNTY ASSEMBLY OF NYAMIRA – NO.46

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

485. Inaccuracies in Third Party Deposits and Retention

The statement of financial assets and liabilities and as disclosed in Note 8 reflects third party deposits and retentions of Kshs.19,181,437. However, a recalculation of the amount based on opening balance of Kshs.25,863,211, deposits to the account of Kshs.16,559,967 and payments of Kshs.16,497,707 as detailed in IFMIS ledger indicate a closing balance of Kshs.25,925,471 resulting in an unexplained variance of Kshs.6,744,034. Further, as a result of the inaccuracies, the reported decrease in accounts payable in the statement of cashflows of Kshs.6,681,774 is not correct.

In the circumstances, the accuracy of third-party deposits and retentions of Kshs.19,181,437 could not be confirmed.

486. Unsupported Basic Wages of Temporary Employees

The statement of receipts and payments and as disclosed under Note 2 to the financial statements reflects compensation of employee amount of Kshs.304,964,323. Included in the amount is Kshs.66,437,551 in respect of basic wages of temporary employees out of which an amount of Kshs.22,366,800 paid to ninety-nine (99) staff employed at ward offices was not supported with the payment details and recommendation of employment by the County Assembly public service Board.

In the circumstances, the accuracy of the expenditure of an amount of Kshs.22,366,800 in respect of basic wages of temporary employees could not be confirmed.

487. Unsupported Expenditure on Hospitality Supplies and Services

The statement of receipts and payments and as detailed in Note 3 to the financial Statement reflects use of goods and services of Kshs.285,755,986. Included in the amount is Kshs.19,354,400 in respect to hospitality supplies and services. However, review of supporting documents including payment vouchers, invoices and list of participants for an expenditure of Kshs.5,114,600 relating to conference facilitation did not disclose the specific activity undertaken by the county.

In the circumstances, the occurrence of the expenditure of Kshs.5,114,600 in respect of hospitality supplies and services could not be confirmed.

488. Unsupported Office and General Supplies and Services

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services of an amount of Kshs.285,755,986. Included in the amount is Kshs.4,771,718 in respect to office and general supplies and

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services. However, items purchased including stationery, cleaning materials, toners and cartridges worth Kshs.4,383,458 were not recorded in the stores ledgers and issue notes (S11).

In the circumstances, the occurrence and completeness of office and general supplies and services expenditure of Kshs.4,383,458 could not be confirmed.

489. Inaccuracies in Transfers to Other Government Entities

The statements of receipts and payments and as disclosed in Note 4 to the financial statements reflects transfers to other government entities of Kshs.127,000,000 in respect of mortgage scheme fund. Review of the payment details and bank statements revealed that an amount totalling Kshs.74,350,455 was transferred on different dates to County Assembly of Nyamira imprest bank account. However, the transfers were not disclosed in the financial statements and were not supported with bank statements, expenditure budget requisitions, expenditure returns and imprest register.

Further, review of the County Assembly recurrent bank statements and IFMIS payment details for the year revealed an amount totalling Kshs.174,859,860 and Kshs.180,711,654 respectively were transferred to the mortgage and car loan scheme fund resulting in an unexplained and unreconciled variances of Kshs.47,859,860 and Kshs.53,711,654 respectively.

In the circumstances, the accuracy and completeness of the transfers to other government entities of Kshs.127,000,000 could not be confirmed.

490. Cash and Cash Equivalents Balance

490.1 Unsupported Reconciling Items

The statement of assets and liabilities and as disclosed in Note 7 of the financial statements reflects Kshs.19,318,802 in respect of cash and cash equivalents. A review of the corresponding bank reconciliation statements as at 30 June, 2023 for the bank revealed that recurrent account receipts in cashbook not in bank of Kshs.28,629,102 was not supported. Further detailed schedule of payments in cashbook not in bank of Kshs.29,057,676 did not include dates of payment. Imprest account receipts in cashbook not in bank of Kshs.5,421,240 was not supported. Further, detailed schedules of payments in cashbook not in bank of Kshs.5,632,962 were not provided for audit review. Salaries account schedules for payment in cashbook not in bank of Kshs.2,118,915 were undated.

490.2 Unreconciled Variances - Development Account

As disclosed in Note 7 to the financial statements, the statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.19,318,802. Included in the balance is Kshs.3 in respect of the County Assembly Development Account as supported by bank certificate balance. However, review of the development account bank statements revealed a balance of Kshs.43,478,760 as at 30 June, 2023 resulting to unexplained and unreconciled variance of Kshs.43,478,757.

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Further, bank reconciliation statement as at 30 June, 2023 reflects balance of Kshs.43,478,757 in respect of receipts in cash book not yet recorded in bank statement that were not supported. Similarly, the bank reconciliation statements reflect payments totalling Kshs.43,478,757 which were made in cashbook but not in the bank whose detailed schedule did not include the date of payments.

In the circumstances, the accuracy and completeness of the cash and cash equivalent balance of Kshs.19,318,437 could not be confirmed.

491. Non-Disclosure of Outstanding Imprest

The statement of financial assets and liabilities did not disclose balance in respect of outstanding imprests. However, review of the bank reconciliation statements in respect of recurrent expenditure revealed total payments of Kshs.29,057,676 that were made in cash book but not in the bank included a total of Kshs.21,645,400 being imprest payments not surrendered.

In the circumstances, the accuracy and completeness of the Nil balance in respect of unsurrendered imprest could not be confirmed.

492. Non-Compliance with Cut-Off Date

The statement of receipts and payments reflects total payments of Kshs.872,412,911. However, included in the amounts is Kshs.75,082,148 comprising recurrent expenditure of Kshs.29,057,676 and development expenditure of Kshs.46,024,472 made after the financial year cut-off date of 30 June, 2023 in breach of Regulation 97(1)(4) of the Public Finance Management Act (County Governments) Regulations, 2015 which prohibits cash transactions after the financial year cut off.

In the circumstances, the accuracy of payments of Kshs.872,412,911 could not be confirmed.

Emphasis of Matter

493. Pending Bills

Note 1 of Other Important Disclosures and Annexure 1 to the financial statements reflects pending accounts payable balance of Kshs.41,773,934 which were not settled during the year under review but were carried forward to 2023/2024 financial year. The Management has presented payment vouchers indicating that the pending bills have since been cleared. However, the payments were not supported with invoices and bank statements.

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.

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Other Matter

494. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendation section of the financial statements, are eight (8) prior year issues. However, Management indicated that four (4) were resolved and remaining four (4) not resolved. Management did not provide reports and invitations from the oversight committee's detailing the deliberations and recommendations of the committees. Further, no explanations was provided for the delay in resolving the outstanding issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

495. Non-Compliance with Law on Ethnic Composition

The County Assembly has a total staff of two hundred and forty-nine (249) employees. However, two hundred and forty-six (246) staff members are from the dominant ethnic group forming 99% of the total staff composition. This was contrary to Section 7(2) of the National Cohesion and integration Act, 2008 which requires that no public establishment shall have more than one third (1/3) of its staff from the same ethnic community.

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

496. Unsupported Recruitment of Staff

As disclosed in Note 2 to the financial statement, the statement of receipts and payments reflects compensation of employee of an amount of Kshs.304,964,323 which includes an amount of Kshs.22,366,800 paid to ninety-nine (99) staff employed at the ward offices recruited during the year. However, supporting documents including the advertisements, appointment of recruitment panels, shortlisted candidates and interview performance report and recommendation of the County Assembly public service Board was not provided for audit review. This contravenes Section 12(7)(b) of the County Government Act, 2012 which provides that the County Assembly Service Board is responsible for constituting offices in the County Assembly services, and appointing and supervising office holders.

In the circumstances, Management was in breach of the law and the fairness in the recruitment process could not be confirmed.

497. Delay in Completion of Construction works of Nyamira County Assembly Offices Block

The County Assembly entered into a contract for construction works of Nyamira County Assembly Offices block at a contract sum of Kshs.367,000,000 with completion date of 30 June, 2021 which was extended twice to 13 June, 2021 and later to 20 December, 2023 by the contract implementation team. Audit verification on

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23 November, 2023 revealed that the works were incomplete and the contractor was on site. Management indicated that amount spent as at 30 June, 2023 was Kshs.152,816,506 or 42% of works certified. However, supporting documents including interim payment certificate and Project Implementation Committee reports on reasons for delay in the project completion dates and subsequent extensions on project timelines were not provided for audit review.

In the circumstance, the County Government may not obtain value for money and the expected benefits from the projects to the residents of Nyamira County may not be realized.

498. Stalled Works on Completion of the Construction of Bomwagamo Ward Office

The County Assembly entered into a contract for the proposed construction of a ward office at Bomwagamo at a contract price of Kshs.6,666,305. The contract period was 548 days commencing on 18 May, 2021 with completion date of 5 November, 2022. However, review of the supporting documents including the correspondences revealed that the Director of Supply Chain Management recommended to the Accounting Officer vide a memo dated 20 April, 2023, for the termination of the contract due to breach of contract after 67% completion and payment of Kshs.4,499,305 for the works. Audit verification of the project in November, 2023, revealed that the Accounting Officer had not responded to the memo, the project was incomplete and the contractor was not on site.

In the circumstances, the County may not obtain value for money and the expected benefits from the projects to the residents of Nyamira County may not be realized.

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

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

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COUNTY ASSEMBLY OF NAIROBI CITY – NO.47

REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

500. Variances Between the Financial Statements and the Trial Balance

Review of the trial balance provided for audit revealed the following variances when compared with the reported amounts in the financial statements;

Item	Financial Statement Amount (Kshs.)	Trial Balance Amount (Kshs.)	Variance (Kshs.)
Transfer to Counties	-	451,124,297	(451,124,297)
Transfers to car and other government entities	501,718,392	-	501,718,392
Surplus for the year	186,253	27,451	158,802
Fund balance brought forward - accounts payables fund account	-	66,416,507	(66,416,507)
Prior year Adjustment	257,636,251	3,241,952	254,394,298

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

501. Variances Between the Financial Statements and the Ledgers

Review of the financial statements balances against the ledger balances revealed totals of Kshs.2,278,593,737 and Kshs.823,688,711 respectively resulting in unexplained variance of Kshs.1,800,798,423.

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

502. Inaccuracies in the Statement of Receipts and Payments

The statement of receipts and payments reflects acquisition of assets and other payments amount to Kshs.24,858,733 as disclosed in Note 10 to the financial statements while the statement of comparison of budget and actual amounts reflects acquisition of assets amount of Kshs.4,700,277 respectively resulting in unreconciled and unexplained variances of Kshs.20,158,456.

In the circumstances, the accuracy and completeness of the acquisition of assets amount of Kshs.24,858,733 could not be confirmed.

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503. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.636,732,521 as disclosed in Note 5 to the financial statements. However, Management did not provide payment vouchers and other supporting documents which included receipt, delivery notes, procurement documents and invoices in respect of an expenditure of Kshs.184,017,712.

In the circumstances, the accuracy and completeness of the use of goods and services expenditure amounting to Kshs.184,017,712 could not be confirmed.

504. Unsupported Expenditure on Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.24,858,733 as disclosed in Note 10 to the financial statements. However, Management did not provide payment vouchers and supporting documents which include receipt, delivery notes, procurement documents, invoices and stores receipt statements in support of an expenditure amounting to Kshs.23,082,956.

In the circumstances, the accuracy and completeness of the acquisition of assets amount of Kshs.23,082,956 could not be confirmed.

505. Unsupported Prior Year Adjustments

The statement of financial assets and liabilities and as disclosed in Note 17 to financial statements reflects a balance of Kshs.257,636,250 in respect of prior year adjustment whose nature, line items affected and other details have not been disclosed as required by the International Public Sector Accounting Standard number 3.

In the circumstances, the accuracy and completeness of the prior year adjustment balance of Kshs.257,636,250 could not be confirmed.

506. Inaccurate Statement of Cashflows

The statement of cash flows reflects cash and cash equivalents as at the end of the year of Kshs.186,253. However, the statement reflects other payments amounting to Kshs.12,311,252 under payments for operating expenses which differs with the amount paid and reported in the statement of receipts and payments amount of Kshs.12,080,000 resulting to unreconciled variance of Kshs.231,252. Further, the cash and cash equivalent balance at the start of the year is reported as Kshs.231,253 while the prior year audited financial statements reflects a balance of Kshs.26,991 resulting in unreconciled variance of Kshs.204,261.

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

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507. Misclassification of Expenditure

Review of the financial statements and the ledgers revealed items charged into incorrect account codes resulting in misclassification of expenditure totalling Kshs.319,547,787.

In the circumstances, the accuracy and completeness of the expenditure totalling Kshs.319,547,787 could not be confirmed.

508. Inaccuracies in Cash and Bank Balances

The statement of assets and liabilities reflects total cash and cash equivalents balance of Kshs.186,253 held in five (5) bank accounts as disclosed in Note 13A to the financial statements. Review of bank balance documents revealed that the CBK development account had a closing balance of Kshs.166,380. However, review of the cashbook revealed that the County Assembly received a total of Kshs.20,213,916 while Note 10 to the financial statements acquisition of assets expenditure of Kshs.24,858,733 resulting in an unexplained variance reflects Kshs.4,644,817.

Further, the deposit account cashbook reflects a balance of Kshs.17,953 which was not disclosed in the financial statement. Similarly, the recurrent imprest account balance of Kshs.10,806 differs with the cashbook balance of Kshs.2,367,916 resulting in an unreconciled variance of Kshs.2,357,110. The salary account had a closing balance of Kshs.6,365 which differed with the cashbook balance of Kshs.1,675,544 resulting in an unreconciled variance of Kshs.1,669,179.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.186,253 could not be confirmed.

509. Undisclosed Motor Vehicle Reimbursements

Review of payment details provided revealed that Kshs.279,703,949 was transferred from Car and Mortgage Scheme Fund on 15 February, 2023 to Nairobi City County Assembly vehicle reimbursement account. However, the amount was not disclosed in the County financial statement. Further, the motor vehicle reimbursement account balance was not disclosed in Note 13A to the financial statements casting doubt on the transfer of Kshs.279,703,949.

In the circumstances, the occurrence of the amount of Kshs.279,703,949 transferred from Car and Mortgage Scheme Fund could not be confirmed.

510. Unsupported Other Operating Expenses

The statement of receipts and payments reflects use of goods and services expenditure totalling Kshs.636,732,521 as disclosed in Note 5 to the financial statements which includes Kshs.39,521,628 in respect of other operating expenses. However, review of sampled payment vouchers totalling Kshs.4,558,964 in respect of rent expenditure revealed that rent was paid to different persons with different account numbers contrary to the ones specified in the lease tenancy agreements.

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In the circumstances, the accuracy and completeness of other operating expenses amounting to Kshs.4,558,964 could not be confirmed.

511. Unsupported Communication, Supplies and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.636,732,521 as disclosed in Note 5 to the financial statements which includes expenditure of Kshs.4,017,600 in respect of communication, supplies and services. However, review of payment vouchers in respect of airtime amounting to Kshs.2,817,000 revealed they were not supported by approvals and complete beneficiary lists.

In the circumstances, the accuracy and completeness of the payments under communication, supplies and services amounting to Kshs.2,817,000 could not be confirmed.

512. Unsupported Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.636,732,521 as disclosed in Note 5 to the financial statements which includes expenditure of Kshs.200,830,325 in respect of domestic travel and subsistence. However, payment vouchers provided totalling Kshs.12,010,385 were not supported by relevant documents including, original invitations and approvals**,** boarding passes, attendance lists, conference venue invoices and cash receipts.

In the circumstances, the accuracy and completeness of the domestic travel and subsistence amount of Kshs.12,010,385 could not be confirmed.

513. Unsupported Foreign Travel and Subsistence

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.636,732,521 as disclosed in Note 5 to the financial statements which includes expenditure of Kshs.191,323,977 in respect of foreign travel and subsistence. However, payment vouchers totalling Kshs.36,447,345 were not supported by relevant documents including, original invitations and approvals**,** boarding passes, attendance lists**,** conference venue invoices and cash receipts.

In the circumstance, the accuracy and completeness of the foreign travel and subsistence expenditure of Kshs.36,447,345 could not be confirmed.

514. Unsupported Accounts Payables

Note 1 under other important disclosures to the financial statement reflects pending accounts payables balance of Kshs.189,540,979. However, the account payable balance excluded amount of Kshs.60,546,051 received from Car Loan and Mortgage Account as disclosed in Note 3 to the financial statement.

In the circumstances, the accuracy and completeness of the pending accounts payable balance of Kshs.189,540,979 could not be confirmed.

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515. Unsupported Salary Advances

The statement of assets and liabilities reflects outstanding imprests and advance balance of Kshs.258,051,837 as disclosed in Note 14 to the financial statements. The balance comprises of outstanding imprest balance of Kshs.255,989,837 and advances balance of Kshs.2,062,000. However, the advance balances includes advance to four (4) staff members amounting to Kshs.612,000. Further, Management did not explain why imprest was not surrendered within seven (7) days after return from field work.

In the circumstances, the accuracy of the outstanding imprests and advance balance of Kshs.258,051,837 could not be confirmed.

Emphasis of Matter

516. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final revenue budget and actual amounts on comparative basis of Kshs.2,409,148,302 and Kshs.1,884,769,276 respectively resulting to revenue shortfall of Kshs.524,379,026 or 22% of the budget. Similarly, the County Assembly spent Kshs.1,884,583,024 against an approved budget of Kshs.2,409,148,302 resulting in an under-expenditure of Kshs.524,565,278 or 22% of the budget.

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

517. Pending Bills

As disclosed in Note 1and 2 on other disclosures, the County Assembly had pending accounts payable balance of Kshs.512,320,974 comprising pending accounts payables of Kshs.189,540,979 and staff payable of Kshs.322,779,995. Management did not explain why the bills were not settled during the year when they occurred.

Failure to settle bills during the year to which they relate to distort 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 matters.

Other Matter

518. 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.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

519. Non-Compliance with Fiscal Responsibility Principles

The statement of receipts and payments reflects compensation of employees amount of Kshs.646,213,322 as disclosed in Note 4 to the financial statements. The amount represents approximately 37% of the transfers from CRF of Kshs.1,748,810,398 being 2% percentage points over and above the maximum allowed ceiling 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.

520. Irregularities in Recruitment of Members of Staff

Review of recruitment of staff documents revealed that the County Assembly recruited three (3) members of staff during the year under review. However, the following anomalies were noted;

i. Confirmed minutes by the staff advisory committee on recruitment of the three (3) staff members were not provided for audit.

ii. Confirmed minutes by the County Assembly of Nairobi Service Board on adopting the recommendations of the staff advisory committee and recruiting the three (3) members of staff were not provided for audit.

iii. Their academic certificates were not submitted to Kenya National Qualification Authority for validation and authentication.

iv. No needs analysis for existence of the above vacancies was provided for audit

v. Review of the personal files for the recruited staff revealed lack of vital documents including ethics and anti-corruption report on declaration of wealth and liabilities on first appointment, NHIF and NSSF registration certificates and IPPD data capture sheet.

In the circumstances, it was not possible to establish how the three (3) officers were introduced in the payroll without these documents.

521. Non-Remittance of Statutory Deductions

Management deducted Pay as you Earn (PAYE) of Kshs.64,007,345, National Hospital Insurance Fund (NHIF) of Kshs.3,576,750 and National Social Security Fund (NSSF) of Kshs.2,400 during the year under review. However, there was no evidence that the amounts were remitted to the respective institutions. This was contrary to Section 37(1)

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of the income Tax Act which states that an employer paying emoluments to an employee shall be deducted 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.

522. Irregular Payments to Service Providers Using Imprest

The County Assembly made payments to service providers amounting to Kshs.3,454,900 for provision of facilitation services to various committees during the financial year under review. The payments were in respect of facilitation fee, per diem and ground transport. However, evidence of procurement procedures used to identify the facilitators and to contract them for service provision were not provided for audit. Further, no explanation was provided by Management for use of imprest in procurement and payment to service providers which amounts to direct procurement without justification.

523. Irregularities in Legal Contracts

Review of legal records revealed that the County Assembly made payments amounting to Kshs.38,708,640 to various legal firms engaged directly from the prequalified list of suppliers. This however contravenes the Public Procurement and Disposal Act, 2015 and Civil Procedure Act Chapter 21. Further, review of payment vouchers relating to payment of legal services revealed that there were no contracts between the advocate and the County Assembly, no itemized fee notes, no detailed service provided by the lawyers upon which the fee note was based and no current status of the legal cases was provided for audit.

In the circumstances, value for money on the legal services amounting to Kshs.38,708,640 could not be confirmed.

524. Irregular Expenditure on Subscriptions

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.279,413,929 which, as disclosed in Note 3 to the financial statements, includes other operating expenses amount of Kshs.41,137,171 out of which, amounts of Kshs.4,450,000 and Kshs.750,000 were paid to the County Assembly Forum (CAF) and Society of Clerks-at-The-Table in Kenya (SOCATT(K)) respectively as subscription fees. However, the payments lacked legal backing and supporting policy guidelines.

In the circumstances, value for money on the subscription's expenditure of Kshs.5,200,000 could not be confirmed.

525. Non-Compliance with Ward Partisan Staffing Levels

Review of staffing records revealed that the County Assembly employed a total number of two hundred (200) partisan staff for the wards against the set limit of one hundred and forty-four (144) as per circular number CRA/CSO/CMG//9/VOLV/59 dated 21 October, 2020 on Advisory of Ward Offices Operation Costs from the Commission on Revenue Allocation.

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

526. Unutilized Speaker's Residence

The Speaker's residence of the County Assembly of Nairobi City was awarded at a cost of Kshs.55,811,842 and a final completion certificate issued on 26 August, 2021 in respect of the project. During the year under review an amount of Kshs.2,028,303 was paid to the contractor as the final payment. However, physical inspection conducted on 10 November, 2023 revealed that the project was complete but the residence was not in use.

In the circumstances, value for money on the expenditure of Kshs.55,811,842 incurred on the construction of the Speaker's residence 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 a Disclaimer of Opinion

None

2. Certificates with Unqualified Opinion

S/N	County Code	County Assembly	Opinion
1.	10	Marsabit	Unqualified
2.	26	Trans Nzoia	Unqualified
3.	39	Bungoma	Unqualified

3. Certificates with Qualified Opinion

S/N	County Code	County Assembly	Opinion
1.	1	Mombasa	Qualified
2.	2	Kwale	Qualified
3.	3	Kilifi	Qualified
4.	4	Tana River	Qualified
5.	5	Lamu	Qualified
6.	6	Taita/Taveta	Qualified
7.	7	Garissa	Qualified
8.	8	Wajir	Qualified
9.	9	Mandera	Qualified
10.	11	Isiolo	Qualified
11.	12	Meru	Qualified
12.	13	Tharaka-Nithi	Qualified

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S/N	County Code	County Assembly	Opinion
13.	14	Embu	Qualified
14.	15	Kitui	Qualified
15.	16	Machakos	Qualified
16.	17	Makueni	Qualified
17.	18	Nyandarua	Qualified
18.	19	Nyeri	Qualified
18.	20	Kirinyaga	Qualified
20.	21	Murang'a	Qualified
21.	22	Kiambu	Qualified
22.	23	Turkana	Qualified
23.	24	West Pokot	Qualified
24.	25	Samburu	Qualified
25.	27	Uasin Gishu	Qualified
26.	28	Elgeyo/Marakwet	Qualified
27.	29	Nandi	Qualified
28.	30	Baringo	Qualified
29.	31	Laikipia	Qualified
30.	32	Nakuru	Qualified
31.	33	Narok	Qualified
32.	34	Kajiado	Qualified
33.	35	Kericho	Qualified
34.	36	Bomet	Qualified
35.	37	Kakamega	Qualified
36.	40	Busia	Qualified

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S/N	County Code	County Assembly	Opinion
37.	41	Siaya	Qualified
38.	42	Kisumu	Qualified
39.	43	Homa Bay	Qualified
40.	45	Kisii	Qualified
41.	46	Nyamira	Qualified

4. Certificates with Adverse Opinion

S/N	County Code	County Assembly	Opinion
1.	38	Vihiga	Adverse
2.	44	Migori	Adverse
3.	47	Nairobi	Adverse

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