OFFICE OF THE AUDITOR-GENERAL

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

REPORT

OF

THE AUDITOR - GENERAL

FOR

THE COUNTY GOVERNMENTS

FOR

THE FINANCIAL YEAR

2019/2020

VOLUME II - COUNTY ASSEMBLIES













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REPORT OF THE AUDITOR-GENERAL ON COUNTY GOVERNMENTS FOR THE YEAR 2019/2020

VOLUME II – COUNTY ASSEMBLIES

1.0 Introduction

1.1 Legal Mandate of the Office of the Auditor-General

The Auditor-General is mandated by the Constitution of Kenya, under Article 229, to audit and report on the use of public resources by all entities funded from public funds. These entities include: the National Government, County Governments, the Judiciary, Parliament, statutory bodies/state corporations, commissions, 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 the audit reports of the public entities to Parliament and the relevant County Assemblies by 31st December, every year. In carrying out the mandate, the Auditor-General, is also required, under Article 229(6) to assess and confirm whether public entities have used public resources entrusted to them lawfully and effectively.

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

Management is also 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.

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

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

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

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

I have amended the structure of my report to address the reporting requirements of Article 229(6) of the Constitution of Kenya, 2010, which requires that an audit report shall confirm whether or not public money has been applied lawfully and in an effective way and Section 7(1)(a) of the Public Audit Act, 2015 also which requires that I provide assurance on the effectiveness of internal controls system, risk management and governance in national and county governments entities.

In addition, the International Standards of Supreme Audit Institutions (ISSAIs), 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 parts:

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.

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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.

ii. 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.

iii. Report on Other Legal and Regulatory Requirements is included where applicable, especially for the entities that 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 is significant disagreement between the financial statements and the underlying books of accounts and/or standards. 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 opinion on the financial operations.

The list of the County Assemblies and the type of opinion given on the financial statements is contained in Appendix A.

1.6 Audit Findings

The key audit findings noted during the audit of each County Assembly's financial statements for the year ended 30 June, 2020 are presented in the sections below.

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COUNTY ASSEMBLY OF MOMBASA – NO.1

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects various balances which differ significantly with the corresponding balances as reflected in the Integrated Financial Management Information System, IFMIS Report as summarized below:

Items	Financial Statements	Expenditure as Per IFMIS	Variance
	(Kshs.)	(Kshs.)	(Kshs.)
Transfers from the County Treasury/Exchequer Releases	730,885,783	50,000,000	680,885,783
Compensation of Employees	352,513,037	202,703,203	149,809,834
Use of Goods and Services	297,197,259	185,264,693	111,932,566
Transfer to Other Government Entities	50,046,057	0	50,046,057
Acquisition of Assets	29,257,959	27,470,690	1,787,269
Finance Costs	0	42,310,230	(42,310,230)

In absence of any reconciliation and explanation, the accuracy and completeness of balances reflected in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

2. Transfers from the County Treasury / Exchequer Releases

As disclosed in Note 1 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2020 shows transfers from the County Treasury/Exchequer releases balance of Kshs.730,885,783. However, a review of the financial statements reflects transfers to County Assembly of Kshs.661,397,987, resulting to an unreconciled and unexplained variance of Kshs.69,487,796.

In the circumstances, the accuracy and completeness of transfers from the County Treasury/Exchequer releases balance of Kshs.730,885,783 for the year ended 30 June, 2020 could not be confirmed.

3. Compensation of Employees

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects compensation of employees' total expenditure balance of Kshs.352,513,037. Included in the amount are Kshs.14,325,386 and Kshs.39,551,931 in respect of salaries and staff payroll deductions respectively, all totalling Kshs.53,877,317 paid through Mombasa County Assembly imprest account.

However, payment vouchers in support of the expenditure were not provided for audit verification. Further, documentary evidence to support subsequent remittance of the payroll deductions of Kshs.39,551,931 were similarly not provided for audit review.

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In the circumstances, the validity and completeness of the expenditure of Kshs.53,877,317 could not be confirmed.

4. Unsupported Expenditure – Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.297,197,259 under use of goods and services. Included in the expenditure is an amount of Kshs.4,517,302 spent on training of Members of County Assembly in Dubai. However, procurement records showing how the venues were identified and contract awarded were not provided for audit verification.

In the circumstances, the regularity and value for money of the expenditure of Kshs.4,517,302 could not be ascertained.

Other Matter

5. Pending Bills

Note 5.10 - Other Disclosures to the financial statements reflects pending bills amounting to Kshs.90,251,208 as at 30 June, 2020. The bills relate to construction of civil works and supply of goods and services balance of Kshs.29,816,372, pending staff payables balance of Kshs.6,416,146 and unremitted statutory deductions (PAYE, NHIF, NITA Levy, Income Tax on Gratuity) and unremitted staff pension contributions to the NSSF and LAPTRUST amounting to Kshs.54,018,690. Management has not given any explanation why the bills were not settled during the year but were instead carried forward to the subsequent year.

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.

6. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

7. Non-Compliance with Public Finance Management (County Governments) Regulations, 2015

As disclosed in Note 14 to the financial statements, the statement financial position reflects an outstanding imprests balance of Kshs.17,599,863 as at 30 June, 2020. Review of imprests register revealed that, imprests amounting to Kshs.12,288,346,

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though due, had been outstanding for between six months and twelve months. This is 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 it within seven days after returning to duty station.

Further, it was revealed that an amount of Kshs.14,735,121 relates to additional imprests issued to twenty-four Members of County Assembly who had outstanding balance contrary to Regulation 93(4)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the applicant has no outstanding imprest.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

8. Failure to Develop Risk Management Strategies and Operationalize Audit Committee

During the financial year ended 30 June, 2020, County Assembly did not have an operational Audit Committee to oversight over County Assembly operations. The Internal Audit Unit had no charter creating functions, roles and powers of the Unit. As such, the head of Internal Audit Unit reported administratively and functionally to the Clerk of County Assembly which casts doubt on the independence of the Unit.

Further, the County Executive did not develop a Risk Management Strategy to guide it to develops a system of risk management and internal control that builds robust business operations.

In the circumstances, the existence of an effective internal audit function could not be established.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

9. Inaccuracies in Bank Balance

As disclosed in Note 13A to the financial statements, the statement of financial assets and liabilities reflects a bank balance of Kshs.55,231,226 as at 30 June, 2020. However, the bank balance was arrived at after offsetting an amount of Kshs.368,784 relating to Central Bank of Kenya Development Account cashbook overdraft. This was contrary to Paragraph 48 of the International Public Sector Accounting Standard (IPSAS) No.1 which provides that assets and liabilities, and revenue and expenses, shall not be offset unless required or permitted by a standard.

In the circumstances, the accuracy of the bank balance of Kshs.55,231,226 as at 30 June, 2020 could not be ascertained.

10. Irregular Payment on Compensation of Employees

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects compensation of employees' expenditure of Kshs.251,878,861 for the year ended 30 June, 2020. Included in the above amount are personal allowances paid as part of salary amounting to Kshs.92,631,108, out of which an amount of Kshs.865,920 relates to subsistence allowances. Further, the personal allowances paid as part of salary include an adjustment of Kshs.430,000 in the ledger which was not supported by a journal entry. The Management did not explain why subsistence allowances were captured as personal allowances paid as part of salary or give explanations for lack of the journal vouchers.

In the circumstances, the accuracy of compensation of employees' expenditure of Kshs.251,878,861 for the year ended 30 June, 2020 could not be confirmed.

11. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2020 reflects use of goods and services expenditure of Kshs.314,284,552. The following issues were identified:

11.1. Domestic Travel and Subsistence Allowances

The balance includes domestic travel and subsistence allowances expenditure of Kshs.110,186,658 out of which an amount of Kshs.3,301,425 was not supported by invitation letters, programs of work, evidence of workshop attendance, reasons for holding meetings out of normal station of work and reports of findings after undertaking benchmarking tours.

Further, temporary imprests balance of Kshs.59,246,574 advanced to staff and Members of County Assembly were expensed under subsistence allowances account before the respective imprest holders had accounted for or surrendered the same.

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11.2. Foreign Travel and Subsistence Allowances

The balance includes foreign travel and subsistence allowances expenditure of Kshs.28,560,939 out of which an amount of Kshs.2,644,620 was not supported by training needs assessment, relevant travel documents, certificates of participation, signed attendance registers and reports from seminars and trainings attendance.

11.3. Training Costs

The balance includes training expenses expenditure amounting to Kshs.24,047,697 which further includes an amount of Kshs.18,149,239 in respect of provision of local and foreign training services. Kshs.4,297,800 was spent on training Members of County Assembly but it was not supported with training needs assessment reports, approval of training, identification of those to be trained and back to office reports.

11.4. Other Operating Expenses – Legal Expenses

Included in use of goods and services and as disclosed in Note 5 to the financial statements is other operating expenses balance of Kshs.23,498,956 out of which an amount of Kshs.12,563,310 was in respect of legal fees paid to private law firms representing the County Assembly on various legal matters. However, Management did not provide the case files and details of instructions from the County Assembly for representation for audit review.

In the circumstances, the propriety and regularity of the use of goods and services amounting to Kshs.82,053,729 could not be confirmed.

12. Acquisition of Assets

As disclosed in Note 10 to the financial statements, the statement of receipts and payments and reflects acquisition of assets expenditure of Kshs.175,000,626 for the year ended 30 June, 2020. However, the balance differs with an amount of Kshs.175,450,626 disclosed in Annex – 4 (summary of fixed assets register) by an amount of Kshs.450,000.

Further, the balance constitutes expenditure in respect of construction of buildings of Kshs.38,418,158 which includes an amount of Kshs.19,684,358 in respect of construction of fourteen Ward offices for Members of County Assembly with cumulative payments amounting to Kshs.73,304,211. Management did not provide ownership documents for the land on which the offices were being constructed.

Under the circumstances, the ownership of the parcel of land on which the Ward Offices had been constructed could not be confirmed.

13. Accounts Receivables – Prepayments and Advances

The statement of financial assets and liabilities and as disclosed under Note 14 to the financial statements reflects accounts receivables balance of Kshs.6,323,440 as at 30 June, 2020. As previously reported all amount includes payment of Kshs.6,018,449 in respect of tax notice by the Kenya Revenue Authority for which Management indicated that this was a direct debit from the Assembly's Central Bank of Kenya Recurrent Account by Kenya Revenue Authority being interest and penalties.

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Although the Management indicated that the County Assembly of Kwale had been remitting its tax obligations on time and did not have any outstanding obligations, there was no evidence to confirm that Kenya Revenue Authority had accepted to refund or approved the offsetting of the amount from future tax obligations as claimed by the Management.

In the circumstances, the recoverability in full of Kshs.6,018,449 in respect of accounts receivables – prepayments and advances as at 30 June, 2020 could not be confirmed.

Other Matter

14. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.936,706,782 and Kshs.743,449,887 respectively resulting to a shortfall of Kshs.193,256,895 or 21% of the budget. Similarly, the County Assembly expended Kshs.741,465,625 against an approved budget of Kshs.936,706,782 resulting to an under-expenditure of Kshs.195,241,156 or 21% of the budget.

The revenue shortfall and underperformance affected the planned activities impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

15. Irregular Payments to the County Assembly Forum and the County Assembly Sports Association

During the year under review, the County Assembly incurred an expenditure other operating costs totalling to Kshs.23,498,956 which constitutes an amount of Kshs.5,000,000 being subscription to the Society of Clerks at the Table.

Further, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

16. Construction of the County Assembly Complex

The County Assembly commenced the construction of the County Assembly Complex at a contract sum of Kshs.466,892,170. The contract sum was later varied by Kshs.116,723,042 or 25% to Kshs.583,615,212 on 29 March, 2018. Review of the

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terms and conditions of the contract revealed that the project was to be completed on 29 June, 2017. However, the contract period was extended by 78 weeks and for a further 48 weeks respectively. Management did not provide evidence of the performance bond renewal covering the extension of the contract period.

Further, examination of the Project's Bills of Quantities revealed provisional sums totalling Kshs.192,200,000 for various sub-contracted works. However, details of how the sub-contractors were identified, selected and contracted to undertake the works including relevant approval by the Project Manager were not provided for audit verification.

In the circumstances, value for money has not been realised in the construction of the County Assembly Complex due to the delays in completion of the works.

17. Failure to Observe One Third Staff Establishment Rule

A review of personnel records revealed that, the County Assembly had a staff establishment of sixty-one (61) employees as at 30 June, 2020. Review of the staff establishment revealed that the County Assembly had fifty-one (51) or 84% of the employees coming from the dominant community while the other ten (10) or 16% were from the other communities.

This was contrary to Section 7 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 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.

18. Irregular Telephone Allowances

Audit of payroll records revealed that telephone allowances amounting to Kshs.904,000 were paid to staff of County Assembly during the year under review, contrary to the Salary and Remuneration Commission of Kenya Circular Ref. No. SRC/TS/CGOVT/3/16 of 29 July, 2013.

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

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

19. Variances Between Financial Statements and IFMIS

The statement of receipts and payments for the year ended 30 June, 2020 reflects total receipts and payments of Kshs.999,517,108 and Kshs.1,002,100,930, respectively. However, data extracted from the Integrated Financial Management System reflect various balances which differ significantly as shown below:

Component	Financial Statements Balance (Kshs)	IFMIS Payment Details Balance (Kshs)	Variance (Kshs)
Transfers from the County Treasury/Exchequer Releases	999,517,108	890,886,608	108,630,500
Compensation of Employees	384,968,434	370,223,014	14,745,419
Use of Goods and Services	399,052,549	328,664,615	70,390,933
Social Security Benefits	19,670,914	17,989,637	1,681,276
Acquisition of Assets	166,349,315	189,181,401	(22,832,086)

Although the Management attributed the variances to receipts and payments not posted in the Integrated Financial Management Systems, evidence that reconciliation was subsequently done has not been provided for audit verification.

In the circumstances, the completeness and accuracy of the financial statements for the year ended 30 June, 2020 could not be confirmed.

20. Basic Salaries of Temporary Employees

The statement of receipts and payments reflects an expenditure of Kshs.384,968,434 under compensation of employees which, as disclosed in Note 2 to the financial statements, includes an amount of Kshs.40,501,085 paid as basic wages for temporary employees. However, the amount was paid outside the Integrated Personnel Payroll Database (IPPD) and was not supported with contracts of employment between the employees and the County Assembly while copies of academic and professional certificates of employees were also not provided.

In the circumstances, the accuracy and validity of the expenditure of Kshs.40,501,085 incurred on basic wages for temporary employees could not be confirmed.

21. Unsupported Expenditure

The statement of receipts and payments reflects payments amounting to Kshs.399,052,549 in respect of use of goods and services which, as disclosed in Note

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3 to the financial statements, includes an amount of Kshs.178,846,115 relating to domestic travel and subsistence allowances. However, the expenditure was not supported with requisitions from Heads of Departments, imprest warrants, work tickets, boarding passes, bus tickets or taxi tickets and surrender vouchers.

In the circumstances, the propriety of the expenditure of Kshs.178,846,115 incurred on domestic travel and subsistence could not be confirmed.

22. Unauthorized Expenditure

The statement of comparison of budget and actual amount reflects that the Management spent Kshs.399,052,549 against a budget of Kshs.282,115,851 thereby resulting to an overpayment of Kshs.116,936,698 or 41% of the budget which was not authorized or approved.

In the circumstances, the regularity in the expenditure amounting to Kshs.25,223,290 could not be ascertained.

Other Matter

23. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis amounting to Kshs.1,003,455,640 and Kshs.999,517,108 respectively, resulting to an under-funding of Kshs.3,938,532. Similarly, the County Assembly spent Kshs.1,002,100,930 against an approved budget of Kshs.976,877,640 resulting to an over-expenditure of Kshs.25,223,290 or 25.8% of the budget.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

24. Acquisition of Assets

The statement of receipts and payments reflects an expenditure of Kshs.166,349,315 under acquisition of assets which, as disclosed in Note 6A to the financial statements, includes an amount of Kshs.149,434,973 in respect of construction of buildings (Assembly's Office Complex). As reported previously, the project was started in the year 2016/2017 at a contract sum of Kshs.508,549,884. However, due to poor performance of the contractor, the contract was terminated and Management engaged another contractor at a contract sum of Kshs.622,233,278, resulting in an excess commitment of Kshs.113,683,394.

An audit inspection of the project in the month of December, 2020, revealed that the work was in progress although estimated project completion date of 15 September, 2019 had expired.

In the circumstances, delayed completion and cost overrun on the project may deny the public value for money.

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25. Outstanding Imprests

The statement of assets and liabilities reflects a balance of Kshs.4,170,582 under accounts receivables-outstanding imprests which, as disclosed in Note 10 to the financial statements, includes an amount of Kshs.3,688,582 relating to imprests. Records provided for audit review indicated that imprests amounting to Kshs.584,710 had not been surrendered on the due dates contrary to Section 152(3) of the Public Finance Management Act, 2012 which requires an officer to whom cash is advanced to account for the advance within seven days from the date of travel.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

26. Failure to Constitute an Audit Committee

As reported in the previous year, the County Assembly had not constituted an Audit Committee. Further, the Management has not established an Audit Committee to monitor the governance processes, accountability processes and control systems, offer objective advice on issues concerning risk control and governance and associated assurance and also follow up on the implementation of the recommendations of internal and external auditors.

In the circumstances, the existence of an effective internal control system to ensure oversight of the Assembly's operations could not be established.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

27. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.245,815,464 in respect of use of goods and services. Examination of payment records and other supporting documents revealed the following unsatisfactory matters: -

27.1. Domestic Travel and Subsistence

The balance includes an amount of Kshs.156,813,980 in respect of domestic travel and subsistence expenditure. Examination of payment records and other supporting documents revealed that expenditure amounting to Kshs.17,682,700 paid to Members of County Assembly and staff as subsistence allowance while on official duties outside their duty station was not supported with relevant documents such as travel documents, duly approved invitation for meetings or trainings. There was no report prepared by the officers after returning back to the office from the training attended.

27.2. Expenditure on Foreign Travel

The balance also includes an amount of Kshs.5,434,230 incurred on foreign travel and subsistence. However, examination of payment records and other supporting documents revealed that expenditure amounting to Kshs.926,182 incurred on training of Members of County Assembly in Singapore was not supported with relevant documents such as passport, boarding passes, workshop program and a report on the training to the County Assembly.

27.3. Training Expenses

Included in the use of goods and services balance of Kshs.245,815,464 is Kshs.3,991,048 incurred on training expenses. However, examination of payment vouchers and other supporting documents revealed that payments amounting to Kshs.1,218,848 were not supported with training needs assessment report, travel documents and attendance register.

27.4. Routine Maintenance - Vehicles and Other Transport Equipment

Included in use of goods and services balance is an amount of Kshs.2,604,930 incurred on maintenance of vehicles and other transport equipment. However, examination of payments records and other supporting documents revealed that expenditure amounting to Kshs.2,581,550 was not supported with motor vehicle work tickets, reports on defects and pre- and post-inspection certificates.

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27.5. Unconfirmed Office and General Supplies

Included in the use of goods and services balance of Kshs.245,815,464 is a balance of Kshs.16,001,200 incurred on office and general supplies. Audit review of the expenditure records revealed that an expenditure of Kshs.1,260,000 was not supported by procurement and payment documents.

In the circumstances, the propriety on the expenditure amounting to Kshs.23,669,280 included in the use of goods and services for the year ended 30 June, 2020 could not be confirmed.

28. Unsupported Acquisition of Assets Expenditure

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.113,334,387 in respect of acquisition of assets which was paid for construction and civil works. However, examination of payment records revealed that expenditure amounting to Kshs.7,176,142 was not supported with the relevant documents such as Bill of Quantities, tender documents and other stores records.

In the circumstances, the propriety of the expenditure of Kshs.7,176,142 on acquisition of assets for the year ended 30 June, 2020 could not be confirmed.

Other Matter

29. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.160,000,000 and Kshs.139,898,676 respectively, resulting to an under-funding of Kshs.20,101,324 or 12.5% of the budget. Similarly, the County Assembly expended Kshs.116,380,545 against an approved budget of Kshs.160,000,000 resulting to an under-expenditure of Kshs.43,619,455 or 27% of the budget.

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

30. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

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Basis for Conclusion

31. Irregular Subscription to County Assembly's Forum

The balance of Kshs.245,815,464 under use of goods and services also includes a balance is Kshs.27,012,666 on other operating expenses. Examination of payment records and other documents revealed that the County Assembly made payment of Kshs.1,200,000 to the County Assemblies' Forum. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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 is in breach of the law.

32. Failure to Adhere to the Commission on Revenue Allocation Guidelines

Review of the payroll system for the County Assembly revealed that there were eighty-one (81) employees as at 30 June, 2020. This is against the provision of the Commission on Revenue Allocation circular No. CRA/FA/01 VOL 11 (22) which had set the limit of the County Assembly employees to sixty-five (65) and therefore exceeding the required number by sixteen (16) employees.

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

33. Non-Compliance with the County Assembly's Human Resource Manual, 2015

During the year under review, six (6) employees of the County Assembly were paid salary advances amounting to Kshs.1,320,000. It was observed that the salary advances were more than the respective officers' one month's basic salary contrary to Section F (11) of the Tana River County Assembly Human Resource Manual 2015. Further, thirteen (13) Members of County Assembly were paid salary advances amounting to Kshs.5,525,000. However, there are no regulations governing issuance of advances to Members of County Assembly and therefore the salary advances were irregular.

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

34. Failure to Use IFMIS in E-procurement

Review on the utilization of the e-procurement module in Integrated Financial Management Information System established that all procurement plans were developed in Integrated Financial Management Information System. However, it was established that only tendering and sourcing activities was done through

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e-procurement. The County Assembly therefore failed to adhere and implement the Executive Order No. 2 of 2018 Part IV (B) which required that with effect from 1 January, 2019, all public procuring entities undertake all their procurement through the e-procurement module.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

35. Weak Internal Controls on Cash and Bank and Expenditure

Scrutiny of the payment vouchers and other supporting documents for the year under review revealed that payments amounting to Kshs.3,989,132 were made without passing through examination section. The vote book certificates for the same were not signed hence the internal controls for processing of payments were not working properly. The County Assembly prepared its bank reconciliation statement manually and not in IFMIS as required.

In the circumstances, the existence of an effective internal controls to ensure proper management of public resources could not be established.

36. Lack of Functional Internal Audit Unit

During the year under review, the County Assembly did not have a functional Internal Audit Department. The County Assembly did not appoint an internal auditor and did not have an appropriate arrangement for conducting internal audit functions according to the guidelines issued by the Public Sector Accounting Standards Board.

Further, the Management has not established an Audit Committee to monitor the governance processes, accountability processes and control systems, offer objective advice on issues concerning risk control and governance and associated assurance and also follow up on the implementation of the recommendations of internal and external auditors.

In the circumstances, it was not possible to confirm existence of effective governance structures in the County Assembly.

37. Lack of Updated Fixed Assets Register

Annex 2 - summary of fixed assets to the financial statements reflects a balance of Kshs.339,514,341 as at 30 June, 2020 in relation to non-current assets. A review of the fixed asset register in comparison with the balances disclosed in the financial statements revealed that the fixed assets register provided excludes assets inherited from defunct local authority and only captured office tools and equipment from various departments whose acquisition period and value could not be ascertained. There was no documented policies and procedures on management of assets and no valuation reports to indicate whether the fixed assets were valued and inspected from time to time to establish their condition and security.

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In view of the omissions, the internal control over the non-current assets was weak and the assets were not managed in an effective manner.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

38. Use of Goods and Services

The statement of receipts and payments reflects goods and services payments totalling Kshs.127,204,114 as further reflected in Note 4 to the financial statements. Examination of records on the expenditure indicated that some of the payments were not supported with sufficient and relevant records as outlined below:

38.1 Hospitality Supplies and Services

Payments amounting to Kshs.3,120,541 spent on hospitality supplies were not adequately supported with records showing how the expenditure was incurred. The missing records included local purchase orders for goods procured, signed payment schedules for allowances paid to officers, transportation and attendance records.

38.2 Domestic Travel and Subsistence

Further, review of expenditures amounting to Kshs.14,573,000 spent on domestic travel and subsistence were not supported with invitation letters and travel documents to confirm occurrence of the journeys cited and records of attendance and back-to-office reports prepared thereafter.

38.3 Training Expenses

In addition, review of expenditure records indicated that Kshs.13,934,603 was spent on training activities in the year under review. In addition, examination of the respective payment vouchers and other supporting documents indicated that payments amounting to Kshs.10,635,922 were not supported with invitation letters, list of participants, air tickets and return to office reports.

38.4 Foreign Travel

The balance also includes expenditure amounting to Kshs.19,764,641 incurred on staff on foreign trips was not supported with documents indicating whether the payees had travelled out of the country. The missing documents included travel clearance certificates, air tickets, boarding passes and travel insurance. In addition, the records indicated that some of the officers travelled before the actual commencement dates for the programmes and were as a result paid subsistence allowances while idling in waiting.

In view of these issues, the occurrence and validity of the payments totalling Kshs.51,392,785 included in the goods and services reflected in the statement of receipts and payments could not been confirmed.

39. Fixed Assets

Annex 4 - summary of fixed assets - register attached to the financial statements discloses the value of the County Assembly's fixed assets as at 30 June, 2020

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amounting to Kshs.532,356,698 out of which assets worth Kshs.86,162,176 were purchased during the year under review. However, the County Assembly did not maintain a fixed assets register contrary to Section 136(1) of the Public Finance Management Regulations, 2015 which requires the Accounting Officer to maintain a register of assets.

Further, the assets balance amounting to Kshs.532,356,698, includes land, buildings and structures worth Kshs.372,787,736 for the Speaker's official residence. However, ownership documents for the property were not provided for audit verification and therefore its ownership by the County Assembly could not be confirmed.

In addition, physical verification conducted at the County Assembly premises revealed that the assets were not tagged to reveal information on their purchase and locations. The assets balance does not include the value of the County Assembly's Building and therefore, the balance is incomplete.

In view of these issues, the valuation, completeness, and ownership of the assets valued at Kshs.532,356,698 by the County Assembly as at 30 June, 2020 reported in Annex 4 to the financial statements could not be confirmed.

40. Irregular Payments

Examination of records indicated that two payments were made totalling Kshs.1,800,000 in respect to subscription fees for the County Assembly Forum amounting to Kshs.1,300,000 and Society of Clerks-At-The-Table amounting to Kshs.500,000. However, the two entities are not recognized in law as qualified to receive subscriptions sourced from public funds. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

Other Matter

41. Budgetary Control and Performance

The approved budget of the County Assembly for the year under review was Kshs.600,000,000 out of which Kshs.405,000,000 or 67.5% was allocated to recurrent expenditure and Kshs.195,000,000 or 32.5% to development expenditure.

As the data indicates, the absorption rate for recurrent expenditure was 72% and for development expenditure only 39%, with an overall 39% of the budget for both votes absorbed. The low funds absorption rate implied that a significant portion of the projects and activities due for implementation by the County Assembly in the year under review were not executed. This may have hampered the County Assembly from effectively exercising its legislative and oversight roles in the year under review.

42. Pending Accounts Payable

Disclosed under Annex 1 to the financial statements are pending accounts payables totalling to Kshs.4,295,720 comprised of bills for construction of building totalling

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Kshs.3,940,780 and supply of services totalling to Kshs.354,940. No satisfactory explanation was provided by Management for the failure to pay the bills. Delay in payment of pending bills slows down economic activity by denying businesses funds for working capital and reinvestment. It may also lead to avoidance of trading with public entities.

43. Prior Year Issues

The audit report for the previous year had highlighted several matters that included unconfirmed expenditure balances and irregular expenditures among other issues. The matters had not been resolved as at 30 June, 2020.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

44. Non-Compliance with Public Finance Management Act, 2012 on Fiscal Responsibility

The statement of receipts and payments indicates that the County Assembly spent Kshs.153,366,180 on salaries, wages and allowances in the year under review. The expenditure was equivalent to 40% of the total revenue of the County in the year amounting to Kshs.384,104,710 and surpassed the recommended ratio of 35% prescribed in Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015. Management therefore, breached the law and expectations on prudent use of public funds. Further, the overspending on personnel emoluments may have constrained funding for the service delivery functions of the County Assembly.

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

45. Unused Staff Housing Mortgage Scheme

In March 2018, Management entered into a Memorandum of Understanding with a local bank for administration of a staff mortgage scheme. The County Assembly was to remit Kshs.100,000,000 which the bank would use to issue mortgage loans to eligible members of staff. However, although an amount of Kshs.40,000,000 was remitted to the bank, there were no records of staff mortgage loans funded by the Scheme.

In the circumstances, it was not possible to confirm whether any value was obtained from the amount of Kshs.40,000,000 deposited with the bank.

46. Irregular Disposal of Assets

During the year under review, the County Assembly disposed off nineteen (19) assorted fixed assets with a total book value of Kshs.3,520,599, as indicated in the disposal list. However, there was no record confirming whether a report on unserviceable, obsolete or surplus assets was made to the Disposal Committee before the assets were listed for disposal. Further, there were no records indicating that the

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Disposal Committee had verified and processed all the asset disposal recommendations in liaison with the Head of Procurement as required by Section 163 and Section 64 of the Public Procurement and Asset Disposal Act, 2015.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

47. Failure to Establish an Audit Committee

During the year under review, Management had not established an Audit Committee to monitor the governance processes, accountability and control systems in order to offer objective advice on issues concerning risk control, governance and associated assurance on the follow up on the implementation of the recommendations by the internal and external auditors.

In the circumstances the existence of an effective governance and accountability processes and internal control systems could not be ascertained.

48. Lack of Internal Audit Department

During the year under review, the County Assembly did not have an Internal Audit Unit for conducting internal audit function and services as provided by the guidelines issued by the Public Sector Accounting Standards Board. The failure to establish an Internal Audit Unit, implied that the County Assembly's internal control system was inadequate and exposes the County Assembly to the risk of ineffective management of public funds.

In the circumstances, the existence of an effective oversight operations could not be confirmed.

49. Lack of Information Communication Technology Policy

Review of the use of Information and Communication Technology (ICT) in the County Assembly indicated that Management had not established a policy on management of the County Assembly's ICT resources. As a result, documentation of data recovery procedures and data security policy, among other important aspects of ICT management, had not been addressed. Further, there was no Steering Committee to oversee the ICT function and provide guidance and oversight on formulation and implementation of applicable policies.

In the circumstances, utilization of ICT by the County Assembly may not be optimal and effective.

50. Failure to Maintain Manual Cash Books

Review of the County Assembly Treasury records indicated that cashiers did not maintain manual cashbooks to record daily transactions but instead had an electronic spreadsheet with limited security features. Therefore, control on the security and

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validity of the financial data generated at the County Assembly Treasury was inadequate.

In the circumstances, the existence of an alternative records or backups to ensure system recovery in time of data loss could not be ascertained.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

51. Discrepancies in the Financial Statements

The financial statements contain the following errors and inaccuracies:

51.1 Variances Between Financial Statements and Integrated Financial Management System (IFMIS) Report

The statement of receipts and payments for the year ended 30 June, 2020 reflects receipts and payments amounting to Kshs.593,911,763 and Kshs.593,880,350 respectively, while the Integrated Financial Management Information System(IFMIS) records reflected receipts balance of Kshs.602,000,000 and payments totalling to Kshs.509,450,725, respectively. This resulted to significant differences of Kshs.8,088,237 in receipts and Kshs.84,429,625 in respect of payments which was not reconciled.

In the circumstances, the accuracy and completeness of the receipts and payments balances of Kshs.593,911,763 and Kshs.593,880,350 respectively, reflected in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

51.2 Overcast Cash Balance in the Statement of Cash flows

The statement of assets and liabilities as at 30 June, 2020 reflects cash and bank balance of Kshs.3,906,103. However, the bank account balance amount to Kshs.1,038,309 implying that the financial statements' balance may have been overcast by Kshs.2,867,794.

Further, the statement of cash flows reflects cash and cash equivalents closing balance of Kshs.3,906,103 and an opening balance of Kshs.1,006,896 resulting to a balance of Kshs.2,899,207 which differs with the net increase in cash and cash equivalents amounting to Kshs.31,413 reflected in the statement. As a result, the statement of cash flows is not balanced and is therefore inaccurate.

In the circumstances, the accuracy and completeness of the statement of assets and liabilities as at 30 June, 2020 and the statement of cash flows for the year then ended could not be confirmed.

51.3 Unsupported Prior Year Adjustments

The statement of financial assets and liabilities reflects net debit prior year adjustments amounting to Kshs.3,533,380 in the year under review and a net credit balance of Kshs.5,296,191 for the financial year 2018/2019. No explanation was provided for the adjustment and no supporting documents were provided or explanation for the adjustments.

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However, records to support how the balance changed from a credit balance of Kshs.5,296,191 in the previous year to a debit balance of Kshs.3,533,380 in the year under review were not presented for audit.

51.4 Differences in Budget Balances

The statement of comparison of budget and actual amounts: recurrent and development combined reflects total budgeted expenditure totalling Kshs.627,775,000 which, however, differs with the balance of Kshs.582,775,000 reflected in respect to the account in the statement of budget execution by programmes and sub-programmes. The resultant difference of Kshs.45,000,000 was not explained.

51.5 Undisclosed Deposits and Retentions

The statement of financial assets and liabilities reflects nil balances for accounts payables-deposits and retentions for both 2018/2019 and 2019/2020 financial years. However, Note 19 to the financial statements reflects deposits and retentions totalling Kshs.3,800,000 held as at 30 June, 2020. The amounts are not, however, accounted for in the statement of assets and liabilities. As a result, the accuracy and completeness of the accounts payables as at 30 June, 2020 could not be confirmed.

51.6 Inaccuracies of the Pending Bills

Note 1 and Note 2 on other important disclosures to the financial statements reflect pending accounts payables totalling Kshs.30,116,116 and pending staff payables totalling Kshs.3,147,010 as at 30 June, 2020 respectively. The pending accounts payables balance comprised of supply of goods balance amounting to Kshs.15,022,791 and supply of services balance amounting to Kshs.15,093,325. However, a recast of the amounts included in the two balances yielded Kshs.7,332,014 and Kshs.284,171 respectively or Kshs.7,516,185 in aggregate. Therefore, the accounts payables balance reflected in the financial statements is overcast by KShs.22,499,931.

Further, other important disclosures to the financial statements reflect pending accounts payables totalling to Kshs.30,116,116 incurred during the year under review. However, the bills included in the account yielded a sum of Kshs.7,616,185 and therefore the balance reflected in the financial statements is overstated by Kshs.22,499,931.

Failure to pay the bills in due time has distorted the financial statements for the year under review and will adversely affect the budgetary provisions for the 2020/2021 financial year to which they are expected to be charged.

51.7 Unreconciled Exchequer Releases

The statement of receipts and payments for the year ended 30 June, 2020 reflects Exchequer releases totalling to Kshs.587,000,000, whereas the County Treasury report for the year indicates that Exchequer releases to the County Assembly in the year under review amounted to Kshs.608,852,400. The difference of Kshs.21,852,400 between the two sets of records has not been reconciled.

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51.8 Overstatement of Other Receipts

The statement of receipts and payments reflects other receipts totalling Kshs.6,911,763, as further disclosed in Note 3 to the financial statements. Included in the balance is Kshs.3,911,763 of returned Real Time Gross Settlement (RTGS) receipts treated erroneously as income in these financial statements.

in view of these discrepancies, the accuracy and completeness of the financial statements could not be confirmed.

52. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure balance of Kshs.275,403,164, as further detailed in Note 5 to the financial statements. However, the statement constitutes domestic travel and subsistence expenditure balance of Kshs.197,373,774 which includes unsupported payments amounting to Kshs.6,051,900.

Further, the balance includes foreign travel and subsistence expenses balance of Kshs.19,571,324, out of which Kshs.1,101,424 relates to costs of attendance at regional games in Kampala, Uganda. However, travel records including exit and entry stamps on passports used by the participants were not presented for audit.

In addition, the balance includes training expenses balance of Kshs.4,291,987. However, payment vouchers amounting to Kshs.2,360,775 were not supported with signed attendance lists and training programs.

In the circumstances, the propriety of the payments amounting to Kshs.9,514,099 could not be confirmed.

Other Matter

53. Incomplete Report on Prior Year Issues

As disclosed in Note 7 to the financial statements, the statement of assets and liabilities indicates that two issues raised in the report for the previous year had since been resolved. However, no information was provided on the other matters highlighted in the audit report of the previous year. In the circumstances, the report on progress on follow up on prior year auditor's recommendations is not complete and does not meet the requirements set by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

54. Accounts Receivables - Outstanding Imprests

As disclosed in Note 14 to the financial statements, the statement of assets and liabilities reflects outstanding imprests balance of Kshs.665,586 as at 30 June, 2020. Examination of the imprests register indicated that the amounts had been outstanding for over six months. Failure to recover the imprests from staff contravened Regulation

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93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires a holder of a temporary imprest to account or surrender it within seven days after returning to the duty station.

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

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

Basis for Conclusion

55. Lack of Controls on Management of Fixed Assets

Annex 4 to the financial statements reflects a summary of fixed assets register balance of Kshs.109,783,935. However, the dates of acquisition and costs of the assets were not indicated in the fixed assets register and the assets were not tagged to disclose their location and users.

Further, the summary of fixed assets register comparative balance of Kshs.69,318,940 for 2018/2019 which, however, differs by Kshs.25,807,523 with the audited balance of Kshs.95,126,463 for the year 2018/2019. No explanation was provided for the difference between the two sets of records. As a result, the completeness and accuracy of the fixed assets balance totalling Kshs.109,783,935 reflected in the summary of fixed assets as at 30 June, 2020 could not be confirmed.

In view of these omissions, controls on the County Assembly's assets are inadequate and as a result, the assets are at risk of loss and misuse.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

56. Unsupported Expenditure

The statement of receipts and payments reflects an amount of Kshs.225,436,983 in respect of use of goods and services which, as disclosed in Note 3 to the financial statements. However, review of the payment records and other supporting documents revealed that balance includes an amount of Kshs.134,188,898 in respect of domestic travel and subsistence which was not supported by relevant documents including traveling documents, invitation letters, workshop/activity programs, nomination letters to the participating staff and attendance registers for payments of subsistence allowances.

Further, the balance includes an amount of Kshs.3,960,000 in respect of rentals for produced assets which was not supported by lease agreements and valuation reports while an amount of Kshs.16,224,150 in respect of other operating expenses did not have request and authorization for hire of security officers and no signed schedules for the other operating expenses no e not used to support the expenditure.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.12,467,000 in respect of use of goods and services could not be confirmed.

57. Unauthorised Re-Allocation of Funds

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.21,272,731 in respect of acquisition of assets. Included in this amount is Kshs.7,022,731 incurred on purchase of furniture and equipment out of which an amount of Kshs.377,900 was used to pay expenditure on supply of sanitary items. Although it was explained that this was an emergency procurement due to COVID19 pandemic, Management did not provide evidence of approval by the Accounting Officer.

In view of the foregoing, the regularity of the expenditure of Kshs.377,999 on sanitary items could not be confirmed.

58. Irregular Contributions and Annual Subscriptions

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.225,436,983 in respect of use of goods and services. Included in this amount is Kshs.16,224,150 in respect of other operating expenses which in turn includes payment of Kshs.4,400,000 made to the County Assemblies Forum. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution established by the Act

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shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

In the circumstances, the regularity of the expenditure of Kshs.4,400,000 paid to the County Assemblies Forum could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

59. Failure to Implement E-procurement

Review of the County Assembly procurement transactions for the 2019/2020 financial year revealed that the County Assembly processed for procurement of goods, works and services manually and not through the e-procurement platform. This was contrary to Executive Order No. 2 of 2018 which required all public entities to undertake all procurements through e-procurement module with effect from 1 January, 2019.

In view of the above, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

60. Failure to Update Assets Register

During the year ended 30 June, 2020, the County Assembly maintained a fixed assets register. However, the register did not have a provision for additions and disposals of assets making it difficult to update the register with the additions to the existing assets or disposal of assets when such transactions occurs.

In absence of proper ownership documents and complete asset register, the security of the fixed assets cannot be guaranteed.

61. Lack of Approved Internal Audit Charter

Review of the governance structures in the Assembly, revealed that the Assembly does not have an approved internal audit charter that spells out the internal audit purpose, authority and responsibility.

In the absence of an internal audit charter the internal audit unit may not be effective.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

62. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.297,264,520 in respect of use of goods and services. However, examination of records revealed the following unsatisfactory matters: -

62.1 Domestic Travel and Subsistence Allowances

The balance includes an amount of Kshs.194,322,665 incurred on domestic travel and subsistence. The amount represents payments made to Members of the County Assembly (MCAs) and staff for attending workshops and other official duties outside their work station. However, a review of the expenditure and the supporting documentation revealed that expenditure amounting to Kshs.5,952,800 was not supported with traveling documents, invitation letters, nomination letters to the participating staff, signed expenditure schedules with details of job groups and applicable rates for the job groups, attendance registers and training reports. The payments were not supported by training programmes initiated by the County Assembly Services Board.

Further, cash purchases amounting to Kshs.1,068,000 were made in respect of car hire, hire of halls and conferences but no imprest warrant issued or prior approval of the journeys made as required by regulations but instead members travelled and made claims upon return. It was therefore not clear how the MCAs and officials financed their trips.

62.2 Expenditure on Foreign Travel

The balance includes an amount of Kshs.11,744,068 in respect of foreign travel and subsistence. However, review of the expenditure and the supporting documentation revealed that an expenditure of Kshs.4,809,895 was not supported with training programmes initiated by the County Assembly Services Board. Some of the MCAs and staff were not issued with safari imprest as required by regulations but instead made claims upon return. It was therefore, not clear how the MCAs and officials financed the trips costing substantial amounts. No report was prepared after the training, indicating the benefits to the Assembly from the trainings/conferences outside the Country.

Further, payments amounting to Kshs.1,219,400 was made in respect to foreign travel incurred during FY 2018/2019 but the amount had not been disclosed as pending bills in the financial statements during the previous year.

In the circumstances, the accuracy and validity of expenditure amounting to Kshs.10,762,695 on use of goods and services could not be confirmed.

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63. Irregular Payment of Mileage Allowances

During the year under review, the Assembly incurred expenditure amounting to Kshs.144,347,024 on Members of the County Assembly (MCAs) on mileage claims. However, examination of payment vouchers and other supporting documents revealed that an amount of Kshs.3,324,718 paid to various Members of County Assembly as mileage allowances were not supported with copies of the vehicle logbooks owned by the Members of County Assembly or a binding lease agreement for the vehicles and authorized work tickets. It was also noted that the signatures appended to some of the lease agreements and work tickets supporting the payments were different from those of the MCAs on the payment schedules and on the statutory declaration forms.

Further, Management paid mileage allowances amounting to Kshs.1,002,364 to some Members of the County Assembly (MCAs). It was however noted that the MCAs claimed the mileage allowances for the same days they were performing other official duties within and outside the County for which they were also paid subsistence allowances resulting to double charging the Exchequer.

In addition, an amount of Kshs.12,928,272 was in respect of mileage claims that were incurred during financial year 2018/2019. No plausible explanations were given for not paying the mileage in the financial year 2018/2019. Further, Management had not disclosed pending bills in respect of the mileage allowance in its financial statements for 2018/2019.

In the circumstances, the propriety of expenditure amounting to Kshs.17,255,354 included in the use of goods and services balance could not be confirmed.

64. Unsupported Recruitment of Ward County Employees

During the year under review, the Assembly paid an amount of Kshs.35,678,184 on basic wages of temporary employees based at the Ward offices. However, details of the employees, authority to hire, the process of hiring, terms of engagement and duties performed by the employees were not provided for audit review.

In the circumstances, the accuracy of compensation of employees could not be confirmed.

Other Matter

65. Budgetary Performance and Control

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.790,194,403 and Kshs.689,909,182 respectively resulting to an under-funding of Kshs.100,285,221 or 12.7% of the budget. Similarly, the Assembly expended Kshs.689,909,182 against an approved budget of Kshs.790,194,403 which represented a 100% utilisation of all the realised receipts.

However, Management has explained that the under-absorption was caused by the failure by the Wajir County Executive to transfer part of the approved budget

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amounting to Kshs.100,285,221 which included Kshs.30,000,000 for development to the Assembly yet the County Executive received 100% of the approved budget from the National Treasury which included the approved allocation for the County Assembly.

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

66. Unresolved 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. The report on progress made in resolving audit issues highlighted in the previous year's report indicates that all the eight (8) issues had not been resolved as at 30 June, 2020 but Management has indicated that it has nominated officers to follow-up on the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

67. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

During the year under review, the Assembly procured CCTV Cameras worth Kshs.2,850,000 through request for quotations contrary to the requirements of Legal Notice No.106 of 18 June, 2013, on the amendments of the Public Procurement and Assets Disposal Act, 2015 which provides a new threshold matrix requiring value of goods and services above Kshs.2,000,000 to be procured through open tender. It was further noted that the expenditure was charged on other operating expenses account in the budget hence reallocation of funds. Management did not notify the unsuccessful bidders as required under Section 87(3) of Public Procurement and Asset Disposal Act, 2015.

Further, a review of the Assembly procurement transactions for the 2019/20 financial year revealed that the Assembly did not procure goods, works and services through the e-procurement platform contrary to the Executive Order No. 2 of 2018 on implementation of e-procurement.

In the circumstances, Management was in breach the law.

68. Non-Compliance with Staffing Level Ceiling

A review of the Assembly payroll for the month of June, 2020 indicates the Assembly had a total of one hundred and ninety-six (196) employees. The County Assembly of Wajir falls under Group 2 of the Commission on Revenue Allocation, CRA classification of County Assemblies. The CRA circular Ref: CRA/FA/01 VOL 11 (22) dated 28 June, 2018 on County Government Recurrent Expenditure ceilings addressed to County Governors and Speakers of County Assemblies, capped the

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maximum number of staff at 100, for all counties that fall under Group 2. This implies that the Assembly exceeded the maximum number of staff by ninety six (96).

In the circumstances, Management was in breach the law.

69. Unsupported Pending Bills

Disclosed under Annex 1 to the financial statements for the year ended 30 June, 2020 is accumulated pending accounts payables balance of Kshs.248,935,652 comprising of compensation of employees and supply of goods, works and services. However, the pending bills balance was not supported with source documents such as Invoices and Local Purchase Orders and Local Service Orders. Further, a schedule of individual supplier accounts indicating name of supplier, contract amounts, amount paid during the year and outstanding balance at the close of the year, was not provided.

In the absence of supporting documents, it was not possible to confirm the authenticity of pending bills amounting to Kshs.248,935,652 disclosed in the financial statements.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

70. Summary of Fixed Assets

Annex 4 to the financial statements is the summary of fixed assets which reflects Kshs.81,165,921 being total assets owned by the Assembly as at 30 June, 2020. However, the asset register provided for audit review did not indicate the land and buildings occupied by the Assembly that was inherited from the defunct Wajir County Council. As a result, the asset register did not include all the fixed assets owned by the Assembly.

In the circumstances, existence of an effectiveness mechanism to safeguard the assets could not be ascertained.

71. Incomplete Data Capture in IFMIS

A review of ledgers supporting the financial statements balances indicated that payment transactions did not have description of the nature and purpose of the payments. The explanation provided for this omission was failure to capture the description of payments in IFMIS during invoicing. Failure to capture all the required data during processing of transactions in the accounting system leads to incomplete and unreliable reports generated from the system.

In the circumstances, it has not been possible to confirm whether reports generated from IFMIS were complete and reliable.

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72. Failure to Establish Audit Committee

As reported earlier during the financial year 2018/2019, the Assembly had not established an audit committee assist in monitoring the accountability processes and control systems, and offer objective advice on issues concerning risk, control, regulatory requirements and governance of the County. There was no evidence that the Management had established an Audit Committee to monitor its operations.

In the circumstances, it has not been possible to establish the reliability of the system to ensure the presence of good governance mechanism.

73. Lack of Risk Management Policy

Review of records and interviews with Management, indicated that the County Assembly had not established a Risk Management System. An effective reporting system that entailed hotlines, reporting centres and whistle blower facilities had not been established to support accountable and effective management of the financial and other managerial operations of the County Assembly.

I am unable to confirm the existence of a vibrant risk management policy to identify and forestall incidence(s) whenever any risk crystallizes

74. Failure to Maintain Staff Establishment

The Assembly did not maintain a comprehensive approved staff establishment that indicates the optimal number of staff for each category, the number in post and the variance.

In the absence of an approved establishment it was not possible to ascertain whether the Assembly was operating within optimal level of staff establishment.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

75. Use of Goods and Services

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.178,545,883 under use of goods and services. However, audit review of the expenditure revealed the following anomalies;

75.1 Unaccounted Expenditure for Domestic Travel and Subsistence

Included in the expenditure on use of goods and services is an amount of Kshs.36,513,777 relating to domestic travel and subsistence allowances. Examination of payment records and other supporting documents revealed that payments amounting Kshs.6,416,900 were not supported with imprest warrants and a copy of events attendance register. Further, an amount of Kshs.790,300 was paid to officers as quarter per diem while their accommodation had been fully met by the Assembly and not on foreign travel.

In the circumstances, the accuracy and propriety of domestic travel and subsistence allowances of Kshs.7,207,200 for the year ended 30 June, 2020 could not be confirmed.

75.2 Printing, Advertisement and Information Supplies and Services

The expenditure on use of goods and services also includes an amount of Kshs.11,966,996 spent on printing, advertising and information supplies and services. However, an amount of Kshs.2,465,006 was not supported with requisition from the user departments while some of the goods were not received vide counter receipt vouchers (S13). Further, there was no evidence provided on how the goods were utilized.

In the circumstances, the accuracy and propriety of Kshs.2,465,006 for printing, advertising, and information supplies and services as at 30 June, 2020 could not be confirmed.

76. Unsupported Expenditure - Office Furniture

The statement of receipts and payments reflects an expenditure of Kshs.140,156,966 under acquisition of assets which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.14,755,810 incurred on purchase of office furniture and equipment. However, the office furniture worth Kshs.14,450,810 was procured without a requisition from user department and were not taken on charge in the stores' ledger. Further, counter requisition and issue notes were not provided for audit.

In the circumstances, the accuracy and validity of the expenditure on office furniture and equipment of Kshs.14,450,810 as at 30 June, 2020 could not be confirmed.

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77. Other Expenses

The statement of receipts and payments reflects an expenditure of Kshs.29,520,622 described as other payments. As disclosed in Note 7 to the financial statements, the expenditure was incurred in the financial year 2018/2019. However, examination of payment records and other supporting documents revealed the following anomalies:-

i. The expenditure was not reported as a pending bill during the financial year 2018/2019.

ii. A review of IFMIS records revealed that the expenditure was charged to interest on foreign borrowing instead of other expenses.

Some goods were procured using request for quotations when their value was higher than the threshold for quotation. Further, procurement was initiated without requisition from user department.

iii. Contracts for the supply of goods and services were awarded to suppliers who had no certificate of incorporation, tax compliance and Kenya Revenue Authority PIN certificate.

In view of the above anomalies, the accuracy and validity of the expenditure on other expenses balance of Kshs.29,520,622 as at 30 June, 2020 could not be confirmed.

78. Compensation of Employees

During the year under review, the Assembly paid mileage allowances amounting to Kshs.21,230,784 to Members of the County Assembly. However, the following audit observations were made: -

i) There was no report from public works to confirm the distance between the ward offices and the County Assembly offices hence the correct distances claimed could not be confirmed.

ii) The work tickets supporting the mileage allowance contained incorrect speedometer readings. The dates indicated that the vehicles were only moving during the weekends. Some of the vehicles used by the Members of the County Assembly had defective speedometer hence the actual distance covered could not be established.

iii) Some of the payments were not supported with mileage allowance claim forms while others had no indication of distance claimed by the Members of the County Assembly.

iv) In some cases, Members of the County Assembly were paid mileage allowance while they were actually away on official duty outside the County.

In the circumstances, the accuracy of the expenditure of Kshs.21,230,784 on mileage allowances for the year ended 30 June, 2020 could not be confirmed.

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Other Matter

79. Budgetary Control and Performance

The statement of comparison of budget and actual amount-recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.960,662,123 and Kshs.733,174,263 respectively resulting to an under-funding of Kshs.227,487,860 representing 24% of the budget. Similarly, the County Assembly spent Kshs.733,030,959 against an approved budget of Kshs.960,662,123 resulting to an under-expenditure of Kshs.227,631,164 or 24% of the budget. The underfunding and underperformance affected the planned activities and projects which may have impacted negatively on service delivery for the public.

80. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

81. There were no material issues to report on lawfulness and effectiveness in use of public resources noted during the audit.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

82. Failure to Maintain an Updated Fixed Assets Register

Annex 3 to the financial statements on the summary fixed assets reflects a balance of Kshs.269,440,467 being total assets owned by the Assembly as at 30 June, 2020. However, the fixed assets register provided for audit review did not reflect details on the value, acquisition date, class, category and condition of assets.

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

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

83. Unsupported Expenditure – Use of Goods and Services

The statement of receipts and payments reflects a balance of Kshs.382,849,907 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.9,349,368 relating to foreign travel and subsistence allowance. The latter balance includes an amount of Kshs.6,511,459 paid to Members of the County Assembly (MCAs) and Staff for attending a workshop on governance and corruption in Singapore for five (5) days. However, the training needs assessment, back to office reports, passports, boarding passes, training programme and evidence of payment to the training institutions were not provided for audit.

In the circumstances, the accuracy and propriety of the expenditure of Kshs.6,511,459 could not be confirmed.

Other Matter

84. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final budgeted receipts balance of Kshs.816,944,722 and actual receipts of Kshs.611,712,727 resulting to a budget shortfall of Kshs.205,231,995 or 25%. Similarly, the County Assembly spent Kshs.611,091,586 against an approved budget of Kshs.816,944,722 resulting to an under-expenditure of Kshs.205,853,136 or 25% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Marsabit County.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

85. Irregular Payments to County Assembly Forum and Society of Clerks at The Table

The statement of receipts and payments reflects a balance of Kshs.1,400,000 under other grants and transfers which, as disclosed in Note 8 to the financial statements, was in respect of membership fees of Kshs.900,000, dues and subscriptions of Kshs.500,000 paid to the County Assembly Forum and to the Society of Clerks-at-The-Table (SOCATT) respectively.

Further, the expenditure was not budgeted for contrary to Section 50 (2) of the Public Finance Management (County Governments) Regulations, 2015 which states that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on

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allocations and allotments from approved budgets. This is contrary to Section 187 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

86. Irregular Recruitment Processes

The statement of receipts and payments reflects a balance of Kshs.167,275,153 under compensation of employees. Review of personnel documents revealed that Management recruited an Audit Committee Chairperson, Audit Committee Members, Internal Auditor, Secretarial Assistant II and support staff. However, out of one hundred (100) applicants for the position of support staff, nineteen (19) applicants were not considered for shortlisting since they came from other counties. This is contrary to Section B.5 of the Public Service Commission Human Resource Policies and Procedure Manuals, 2015 which states that recruitment will be undertaken on the basis of fair competition and merit; representation of Kenya's diverse communities; adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities.

Further, the County Assembly Service Board required the applicants to submit a certificate of clearance from the Ethics and Ant-Corruption Commission, Higher Education Loans Board, Criminal Investigation Department, Credit Reference Bureau, the Kenya Revenue Authority and a certificate of a professional body. However, five (5) successful applicants did not meet the respective criteria.

In the circumstances, the Board was in breach of recruitment policies and the fairness and transparency of the recruitment processes for the year ended 30 June, 2020 could not be ascertained.

87. Unauthorized Overdrawn Imprest Bank Account

The statement of financial position reflects bank amounting to Kshs.621,141 which, as disclosed in Note 13A to the financial statements, includes an amount of Kshs.57,146 relating to imprest account held in a local bank. However, review of bank statements revealed that the account was overdrawn by Kshs.50,520,128 on various dates attracting total bank charges of Kshs.1,260,448. The overdraft was not authorized contrary to Section 119(4) of the Public Finance Management Act, 2012 which states that an Accounting Officer for a county government entity shall not cause a bank account of the entity to be overdrawn beyond the limit authorized by the County Treasury or a Board of a county government entity.

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

88. Irregular Payments for East Africa Local Authorities Sport and Cultural Association Games in Uganda

The statement of receipts and payments reflects a balance of Kshs.382,849,907 under use of goods and services which, as disclosed in Note 5 to the financial statements,

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includes an amount of Kshs.9,349,368 relating to foreign travel and subsistence allowance. The expenditure on foreign travel and subsistence includes an amount of Kshs.505,370 paid to one Member of the County Assembly and Assembly staff for attending East Africa Local Authorities Sport and Cultural Association (EALASCA) games in Uganda. Review of the invitation letter revealed that the Kampala City Authority where the EALASCA games were to take place had invited all the speakers, clerks, chairperson of sports Committee and staff Coordinators in the forty-seven (47) county assemblies in Kenya. However, no evidence was provided for audit to confirm that the MCA and the staff were among those who were invited to warrant payments of Kshs.505,370.

In the circumstances, the value for money for the expenditure of Kshs.505,370 could not be confirmed.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

89. Unconfirmed Balances

The statement of cash flows reflects net credit adjustments balance of Kshs.5,375,758 made in respect to the prior year adjustment balance and Kshs.27,948,745 on the 2018/2019 comparative balance respectively. However, supporting documents for the adjustment amounting to Kshs.5,375,758 were not provided for audit review.

Further, the audited financial statements for the year ended 30 June, 2019 reflected a nil balance in respect to the account. As a result, the validity of the adjustment amounting Kshs.27,948,745 reflected in the financial statements for the year under review was not confirmed.

In addition, the statement reflects previous year cash flows from operating activities balance amounting to Kshs.410,644,815. However, the audited financial statements for the year ended 30 June, 2019, the account reflected a balance of Kshs.409,819,543. The difference of Kshs.825,272 between the two sets of records was not explained.

In the circumstances, the accuracy of the statement of cash flows for the year ended 30 June, 2020 could not be confirmed.

90. Irregular Payments to County Assembly Forum and Society of Clerks at The Table

During the year under review the County Assembly made payments amounting to Kshs 1,500,000 which constitutes an amount of Kshs.1,000,000 and Kshs.500,000 in respect of subscription to the County Assembly Forum (CAF) and The Society of Clerks at the Table (SOCATT), respectively. However, there was no evidence to confirm that the payments were included in the budget for the year under review. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution established by the Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

In the circumstances, the regularity of the expenditure amounting to Kshs.1,500,00 could not be ascertained

91. Pending Bills

Notes 7.10.1 and 7.10.3 reflect nil balances in respect to pending accounts payables and other pending payables. The Notes indicate that additional information on the bills is reflected in Annex 1 and Annex 3 of the financial statements respectively. However, the two annexures reflect similar balance of Kshs.20,965,903.

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In the circumstances, the accuracy of the financial statements may not reflect the true and fair view on pending accounts payables and other pending bills.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

92. Failure to Prepare Quarterly Financial Reports

Audit review of the financial reporting system indicated that contrary to Section 166(1) of the Public Finance Management Act, 2012, Management did not prepare quarterly financial and other operational reports during the year under review. The provision requires the Accounting Officer in each public entity to prepare, publish and publicize a report for each quarter of the financial year in respect of the activities of the entity and not later than one month after the end of each quarter.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

93. Incomplete Fixed Asset Register

Annex 4 to the financial statements reflects a summary of fixed assets register that contains various fixed assets with an aggregated value of Kshs.473,621,777. However, the actual register excludes important information on the assets such as historical cost, condition of the asset, identification by user and location, and the date the asset was acquired while the disclosures made in respect to the assets are not sufficient. The assets were therefore, not adequately safeguarded from misplacement or loss.

In the circumstances, the accuracy and completeness of the assets owned by the County Assembly as at 30 June, 2020 could not be confirmed.

94. Lack of an Information, Communication and Technology (ICT) Policy

Review of the activities of the Information Communication Technology (ICT) Unit confirmed that as in previous years, Management had not established and documented a policy on investment and use of the ICT resources of the County Assembly. Further, the approved organizational structure for the ICT Unit was not provided for audit review. Further, controls and risks in use of the resources, including data security and disaster recovery plans may not be effective.

In the absence of an approved policy and organizational structure, the County Assembly's ICT resources are unlikely to be used optimally.

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95. Lack of Audit Committee

As similarly reported in the previous year, Management has not established an Audit Committee to provide oversight on the financial and other operations of its financial affairs of the County Assembly.

In the circumstances, the existence of an effective oversight of the could not be confirmed.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

96. Inaccuracies in Cash and Cash Equivalents

As disclosed in Note 7 to the financial statements, the statement of financial assets and liabilities reflects a balance of Kshs.627 in respect of bank balances which was at variance with the cashbooks amount of Kshs.629,003 resulting to an unexplained and unreconciled variance of Kshs.628,376. Review of the bank reconciliation statements revealed a balance of Kshs.469,630 in respect of recurrent account and a Nil balance in respect of imprest accounts which was at variance with the certificates of balance of Kshs.1,003,188 in respect of the recurrent account and Kshs.1,954,036 in respect of the imprest account.

Further, the bank reconciliation statement for a bank held at a commercial bank reflects Kshs.160,000 in respect to payment in bank statement not recorded in the cashbook that has remained outstanding since November, 2013. Management did not provide explanations on the differences or why the balance has not been cleared.

In the circumstances, the accuracy and completeness of the Kshs.627 in respect to bank balances as at 30 June, 2020 could not be ascertained.

97. Unsupported Expenditure

The statement of receipts and payments reflects Kshs.397,837,738 in respect to use of goods and services which, as disclosed in Note 4 to the financial statements constitutes a balance of Kshs.238,692,597 in respect to domestic travel and subsistence. Included in the domestic travel and subsistence is Kshs.9,003,600 paid to Members of County Assembly while attending seminars and report writing workshops outside Meru County. However, supporting documents including attendance registers, work tickets and committee resolution to have the committee sittings outside the duty station were not provided for audit review.

Further, the balance includes an amount of Kshs.24,906,003 in respect to hospitality supplies and services out of which expenditure amounting to Kshs.3,081,200 was not supported by relevant documents such as invitation letters to meetings/conferences/workshops, signed attendance registers, payment vouchers, approved rates of payments, back to office reports, evidence of travel to and from the meetings, conferences and workshops venues and work tickets.

In the circumstances, the propriety of the expenditure included in the use of goods and services amounting to Kshs.12,084,800 for the year ended 30 June, 2020 could not be ascertained.

98. Irregular Contributions to County Assembly Forum (CAF)

The statement of receipts and payments reflects Kshs.397,837,738 in respect of use of goods and services which, as disclosed in Note 4 to the financial statements

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includes Kshs.70,536,099 in respect to other operating expenses. Included in the other operating expenses is an amount of Kshs.3,000,000 in respect to payment for County Assembly Forum (CAF) membership subscription for 2019/2020 financial year. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution established by the Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

In the circumstances, the regularity of the expenditure amounting to Kshs.3,000,000 could not be ascertained.

99. Procurement of Legal Services

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects Kshs.397,837,738 in respect to use of goods and services which includes Kshs.70,536,099 in respect to other operating expenses. Included in this amount is Kshs.2,583,000 in respect to legal fees paid to two (2) law firms. However, procurement records indicating how the service providers were identified and the contract between County Assembly and the two law firms were not provided for audit review.

In the circumstances, the regularity of the procurement of legal services for the year ended 30 June, 2020 could not be ascertained.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis of Conclusion

100. Non-Compliance with Fiscal Responsibility Principles on Wage Bill

As disclosed in Note 3 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2020 reflects a balance of Kshs.463,148,635 in respect to compensation of employees compared to Kshs.867,000,000 in respect to the total revenue received in the year under review. The wage bill constitutes fifty-three (53%) of the total revenue for the year ended 30 June, 2020 contrary to Section 25(1)(b) of the Public Finance Management (County Government) Regulations, 2015 which states that the wage bill shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

101. Non-Compliance with Public Procurement and Asset Disposal Act, 2015

The statement of receipts and payments for the year ended 30 June, 2020 reflects a balance of Kshs.397,837,738 in respect to use of goods and services which, as disclosed in Note 4 to the financial statements includes an amount of Kshs.1,543,343

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in respect to expenditure on fuel, oil and lubricants which was procured using direct procurement method. This was contrary to Section 91(1) of the Public Procurement and Asset Disposal Act, 2015 which provides for open tendering as the preferred procurement method for procurement of goods, works and services.

In the circumstances, Management was in breach of law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

102. Lack of Risk Management Policy and Report

The County Assembly had not put in place risk management policy, strategies and risk register to mitigate against risk and 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, the existence of an effective risk management could not be confirmed.

103. Ineffectiveness of the Internal Audit Function

Review of records provided for audit review revealed that the internal audit charter was in draft form, and had not been approved by the Board. Further, the audit department was not adequately facilitated as there was no clear budget line for the function.

In the circumstances, the County Assembly internal audit function may not function as required.

104. Summary Statement of Fixed Assets

Annex 4 to the financial statements reflects Kshs.259,999,239 in respect to historical cost of assets as at 30 June, 2020. However, the fixed assets register maintained by the County Assembly was not up-dated and did not include the values, acquisition dates and historical costs of the fixed assets.

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

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

105. Cash and Bank Balances

As disclosed in Note 8A to the financial statements, the statement of financial assets and liabilities reflects an amount of Kshs.24,428 in respect of cash and bank balances as at 30 June, 2020. However, the certificate of bank balance provided for audit review reflects Kshs.11,620 resulting to an unexplained and unreconciled variance of Kshs.12,808.

In absence of ant reconciliations, the validity and accuracy of the Kshs.24,428 in respect of cash and bank balances as at 30 June, 2020 could not be ascertained.

106. Unsupported Expenditures - Use of Goods and Services

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.155,909,381 in respect of use of goods and services. Review of records revealed that the balance constitutes expenditure amounting to Kshs.12,717,158 under foreign travel and subsistence which includes an amount of Kshs.1,028,273 whose supporting documents such as payment vouchers were not provided for audit review.

In the circumstances, the accuracy and propriety of the expenditure amounting to Kshs.1,028,273 could not be ascertained.

107. Irregular Contributions to County Assembly Forum (CAF)

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.155,909,381 in respect of use of goods and services which includes Kshs.25,906,590 in respect of other operating expenses out of which Kshs.2,800,000 was paid as membership subscription to County Assembly Forum which is a private body. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. Further, specific activities being funded and the basis for such payment were not provided for audit review.

In the circumstances, the regularity of the expenditure amounting to Kshs.2,800,000 could not be ascertained.

108. Unsupported Expenditure - Acquisition of Assets

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.15,025,372 in respect of acquisition of assets which includes Kshs.543,310 spent on purchase of Information and Communication

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Technology (ICT) equipment, software and other ICT assets, installation of internet mast and testing of internet. However, supporting documents such as approved requisition, quotations, certificate of completion were not provided for audit review.

In the circumstances, the propriety and accuracy expenditure could not be ascertained.

Other Matter

109. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.413,650,000 and Kshs.357,770,800 respectively, resulting to an under-funding of Kshs.55,879,200 or 14% of the budget. Similarly, the County Assembly expended an amount of Kshs.357,137,470 against an approved budget of Kshs.413,650,000 resulting to an under-expenditure of Kshs.56,512,530 or 14% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

110. Unsupported Pending Bills

Note 7.10 – Other disclosures to the financial statements which reflects an amount of Kshs.40,894,958 (2019: Kshs.10,517,225) in respect of outstanding pending bills as at 30 June, 2020. Available records indicate that balance brought forward was cleared during the year and the Kshs.40,894,958 represents the outstanding bills for the year under review.

However, creditors' ledgers were not provided to ascertain the creditors' movement within the year and whether the Kshs.10,517,225 paid during the year was eligible. Further, the additional pending bills of Kshs.40,894,958 relating to supply of goods and services were not supported by payment vouchers and certificates of work done.

Failure to settle bills in the year to which they relate will adversely affect the implementation of the subsequent year's budgeted programs as the pending bills form a first charge.

111. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

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Conclusion

Basis for Conclusion

112. Irregular Renewal of Contract

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.176,965,725 in respect of compensation of employees which includes a balance of Kshs.266,350 in respect of salary and allowances paid to a security warden. Review of documents provided for audit review revealed that the County Assembly Service Board renewed employment contract for the security warden with effect from 1 February, 2020 for a period of three years. Review of the payroll and personal file provided revealed that at the time of the contract renewal, the employee had attained the age of 60 years. However, no evidence was provided for audit review to confirm why the contract was renewed contrary to Section D.21 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which stipulates that all officers shall retire from the service on attaining the mandatory retirement age of 60 years or 65 years for persons with disabilities and/or as may be prescribed by the Government from time to time.

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

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

During the year ended 30 June, 2019, three (3) 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 explanation for failure to comply with the policy. The County contravened Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 as this may expose the staff to pecuniary embarrassment.

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

114. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.155,909,381 in respect of use of goods and services. A review of the procurement process and documents revealed the following unsatisfactory matters:

114.1 Procurement Outside the Procurement Plan

The balance includes an amount of Kshs.1,286,800 spent under printing, advertising and information supplies and services. However, review of the procurement plan revealed that Kshs.920,120 out of the Kshs.1,286,800 was spent on procurement of goods and services that were not included in the procurement plan for the year ended 30 June, 2020 contrary to Section 45(3)(a) of the Public Procurement and Asset

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Disposal Act, 2015 and Section 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditures shall be within the approved budget of the procuring entity and shall be planned through an annual procurement plan. The regulations also stipulate that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible accounting officer, based on allocations and allotments from approved budgets.

114.2 Failure to Append Signatures on Documents

Further, the balance constitutes an amount of Kshs.18,213,711 in respect of insurance costs which further includes Kshs.2,463,711 and Kshs.15,000,000 paid to two suppliers for group personal accident cover, work injury cover, group life cover and medical covers respectively. However, review of tender opening committee minutes revealed that members did not initial, append their signatures, indicate their full names and designations on the tender documents contrary to Section 78(11)(a) and (b) of Public Procurement and Asset Disposal Act, 2015 which stipulates that each member of the tender opening committee shall initial each page of the minutes and append his or her signature as well as initial to the final page of the minutes indicating their full name and designation. Review of the tender evaluation minutes revealed that one (1) out of the three (3) members did not appended his signature on the evaluation report contrary to Section 80(7) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that the evaluation report shall be signed by each member of the evaluation committee while signed professional opinion to the accounting officer on the procurement proceedings was not provided for audit review contrary to Section 84(1) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that the head of procurement shall, alongside the report to the evaluation committee, review the tender evaluation report and provide a signed professional opinion to the accounting officer on the procurement proceedings.

114.3 Failure to Disclose Percentage of Share Holding

Review of tender documents provided for audit revealed that one (1) supplier had three (3) shareholders from Netherlands out of ten (10) shareholders. However, percentage of their shareholding was not disclosed. It was therefore not possible to confirm that the evaluation complied with Section 86(2) of Public Procurement and Asset Disposal Act, 2015 which stipulates that citizen contractors, or those entities in which Kenyan citizens own at least fifty-one per cent shares, shall be entitled to twenty percent of their total score in the evaluation, provided the entities or contractors have attained the minimum technical score.

114.4 Retreats Held Outside the Precincts of the Duty Station

The balance constitutes an amount of Kshs.14,288,050 spent in respect of hospitality supplies and services which includes Kshs.3,996,200 paid as allowances for retreats, report writing and E-legislative & Information and Communication Technology (ICT). However, the retreats for report writing and E-Legislative & ICT were held in Mombasa, Embu and Nairobi instead of precincts of the County Assembly.

Further, the balance includes payments amounting to Kshs.765,400 paid as allowances to five (5) Members of the County Assembly (MCAs) and ten (10) members

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of staff for attending a three (3) day retreat at a Nairobi hotel for deliberation on various plans, policies, manual and supplementary budget. However, the retreat was held in Nairobi instead of the precincts of the County Assembly contrary to Section 12 of the National Treasury Circular No.20/2015 of 4 November, 2015 which stipulates that accounting officer shall ensure that all workshops and retreats with majority of participants drawn from one duty station are held within the precincts of the duty station.

114.5 Office and General Supplies and Services

Further, an amount of Kshs.12,594,095 was spent in respect of office and general supplies and services which includes payments amounting to Kshs.746,000 paid to two (2) suppliers for supply of ink cartridges and plotter cartridges. However, review of the quotations revealed that the County Assembly split the quotations number TNCA/QT/006/19-21 between the two (2) suppliers.

Review of updated list of registered suppliers revealed that, one (1) of the suppliers was not in the updated list of registered suppliers. Further, approved requisition and professional opinion were not provided for audit review.

In addition, included in the above balance of Kshs.12,594,095 was Kshs.349,050 paid to a supplier for supply of stationeries. However, review of the tender evaluation committee minutes revealed that the committee consisted of three (3) members of staff from procurement department contrary to Section 46(4)(b) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that an established evaluation committee shall consist of between three and five members appointed on a rotational basis comprising heads of user department and two other departments.

114.6 Failure to Publish and Publicize Awarded Tender

During the financial year under review, Management did not prepare, publish, publicize all contract awards and submit them to Public Procurement Regulatory Authority as required by Section 138(1) and (2) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that the accounting officer of a procuring entity shall publish and publicise all contract awards on their notice boards at conspicuous places, and website if available within a period as prescribed.

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

115. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.15,025,372 in respect of acquisition of assets. The balance constitutes an amount of Kshs.833,400 in respect of purchase of office furniture and equipment which includes Kshs.799,400 paid to a supplier for supply of office furniture. However, review of the evaluation committee minutes revealed that only two (2) out of the three (3) members appended their signatures on the evaluation minutes.

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Further, initials, full names and designation of the evaluation committee members were not included in the final page of the evaluation committee minutes contrary to Section 78(11)(a) and (b) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that each member of the tender opening committee shall initial each page of the minutes and append his or her signature as well as initials to the final page of the minutes indicating their full name and designation.

In addition, quotations received were not assigned identification numbers by tender opening committee contrary to Section 78(5) of the Act which stipulates that the tender opening committee shall assign an identification number to each tender and record the number of pages received. In addition, review of documents provided revealed that two different evaluation committee teams were appointed to evaluate the same tender. Review of the tender evaluation committee minutes revealed that the committee consisted of three (3) members of staff from procurement department contrary to Section 46 (4) (b) of the same Act which stipulates that an evaluation committee established, shall consist of between three and five members appointed on a rotational basis comprising heads of user department and two other departments.

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

116. Compliance with the Public Finance Management (County Governments) Regulations, 2015

Annex 5 to the financial statements reflects Kshs.1,382,729 in respect of account receivables (outstanding imprests) as at 30 June, 2020 which relates to imprests issued between 24 June, 2019 and 25 June, 2020. However, the imprest had not been surrendered or accounted for at the time of the audit more than four (4) month since imprest was issued contrary to Section 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Further, explanation on measures taken to recover the long outstanding imprests was not 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

117. Information and Communication Technology

Review of the County Assembly's Information and Communication Technology (ICT) environment revealed that there was no formal approved ICT policy in place during the year ended 30 June, 2020. The policy would have included data security and disaster recovery plans. Further, the ICT organization structure was not provided for audit review.

In the circumstances, the security and reliability of data drawn from the Management Information System could not be confirmed.

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COUNTY ASSEMBLY OF EMBU – NO.14

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

118. Presentation of Financial Statements

Review the financial statements revealed the following anomalies:

i) The statement of budget execution by programme and sub-programme does not show revenue and expenditure item balances contrary to the reporting format prescribed by the Public Sector Accounting Standards Board (PSASB).

ii) The statement of cash flows reflects a prior year comparative balance on acquisition of assets totalling Kshs.5,910,020. However, the 2018/2019 financial statements had reflected the sum as a net credit balance.

iii) Annex 1 to the financial statements reflects pending accounts payables totalling Kshs.117,462,816. However, the Annex does not reflect comparative balances for the previous (2018/2019) financial year contrary to IPSAS 1 which requires that comparative prior period information to be presented for all amounts shown in the financial statements and the Notes to the financial statements.

iv) Contrary to the reporting format prescribed by the PSASB, the other disclosures section of the financial statements does not contain a report on Management's follow-up on issues raised in the audit report for the previous year.

v) The statement of financial assets and liabilities as at 30 June, 2020 reflects a debit (negative) fund balance of Kshs.13,727 brought forward from the previous (2018/2019) financial year. However, the balance was reflected as a credit balance in the audited financial statements as at 30 June, 2019.

In view of these issues, the financial statements have not been prepared in accordance with IPSAS and the format prescribed by the PSASB.

119. Accuracies of the Statement of Comparison of Budget and Actual Amounts

The statement of comparison of budget and actual amounts - recurrent and development combined reflects budgeted receipts of Kshs.692,504,588. However, separate statements of comparison of budget and actual amounts: recurrent and development reflect Kshs.592,518,588 and Kshs.100,000,000 respectively, for the or Kshs.692,518,588 in total, resulting to an unexplained variance of Kshs.14,000.

Similarly, the statement of comparison of budget and actual amounts combined reflects payments totalling Kshs.556,424,206 for the previous year. However, the statement of budget execution by programmes and sub-programmes reflects payments amounting to Kshs.556,551,826 resulting to an unexplained variance of Kshs.127,620.

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

120. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects payments for use of goods and services reflects a balance of Kshs.235,073,234. Examination of records on the payments revealed the balance constitutes training expenses amounting to Kshs.3,850,800 equivalent to 87% of the total Kshs.4,383,520 spent on the item during the year were not supported with relevant records such as the training needs assessment report, approvals from the Training Committee, invitation letters to course participants, attendance lists; and back to office reports.

Further, payment of Kshs.349,935 in respect of paid for premiums for an insurance policy for two vehicles for the duration 24 July, 2019 to 20 July, 2020 but policy documents were not provided for audit review. The payment for the premiums was made on 08 July, 2019 which was 12 days before the expiry of the contracted policy. As a result, the County Assembly had no binding claim against the insurance company in regard to the two vehicles between 24 July, 2019 to 07 July, 2020.

In addition, the balance includes an amount of Kshs.3,194,800 spent on domestic travel and subsistence but supporting documents for payments were not provided for audit review.

In the circumstance, the propriety and accuracy of the payments totalling Kshs.3,194,800 could not be confirmed.

121. Unsupported Acquisition of Assets

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.60,837,654 under acquisition of assets. Examination of expenditure records indicated that an amount of Kshs.995,475 was spent on supply, installation, testing and commissioning of closed-circuit television (CCTV) surveillance system in the County Assembly. However, records on the contract including manuals, service agreement, test report and Bills of Quantities were not provided for audit verification.

Further, the payment for the equipment was supported by a delivery note that did not indicate the serial numbers for the items supplied.

As a result, it was not possible to confirm that the items delivered conformed to the supply contract and that value for money was obtained on the expenditure totalling Kshs.995,475 spent on the items.

122. Pending Accounts Payables

Annex 1 to the financial statements reflects Kshs.117,462,816 in respect to pending accounts payables as at 30 June, 2020. Included in the balance are bills totalling to Kshs.19,749,953 that were not supported with any records, including payment vouchers.

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Further, Note 1 of other disclosures to the financial statements reflects opening pending accounts payables totalling to Kshs.3,733,185. However, the closing pending accounts payables reflected in the audited 2018/2019 financial statements amounted to Kshs.2,053,075. The variance amounting to Kshs.1,680,110 between the two sets of records was not explained.

In view of these issues, the accuracy, validity and completeness of the pending accounts payables balance totalling Kshs.117,462,816 as at 30 June, 2020 could not be confirmed.

123. Fixed Assets

Annex 3 – Summary of Fixed Assets Register reflects historical costs of assets totalling to Kshs.107, 229, 010. Included in the balance is Information Communication Technology (ICT) equipment at a cost of Kshs.13,789,47. However, recomputation of the individual balances amounted to Kshs.13,789,470 resulting to a variance of Kshs.12,410,523.

Further, a bus which was purchased during the year under review at a cost of Kshs.9,747,304 was not included in the assets register and its logbook was not provided for audit review. As a result, its ownership by the County Assembly could not be confirmed.

In addition, as similarly reported in the previous year, valuation of the land on which the County Assembly is located had not been carried out and the nil value for land reflected in Annex 3 to the financial statements is not fairly stated. Management has however explained that the valuation of the land and other assets taken over from the defunct County Council of Embu was ongoing.

In the circumstances, the fixed assets balance reflected in the summary of fixed assets balance of Kshs.107,229,010 as at 30 June, 2020 is not fairly stated.

Other Matter

124. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.692,504,588 and Kshs.556,551,826 respectively, resulting to an under-funding of Kshs.135,952,762 or 19% of the budget. Similarly, the County Assembly expended Kshs.556,424,206 against an approved budget of Kshs.692,504,588 resulting to an under-expenditure of Kshs.136,080,382 or about 20% of the budget. Failure to implement planned activities and programmes may constrain the capacity of the County Assembly to fulfil its oversight and legislative mandate.

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

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

125. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.235,073,234 in respect of goods and services which includes payments totalling to Kshs.8,200,600 for rentals of produced assets.

The latter balance constitutes an amount of Kshs.2,052,000 spent on hire of transport services from various companies through framework agreements. However, review of the register for prequalified suppliers revealed that only five (5) companies had been prequalified and registered to provide framework agreement services to the County Assembly. The award of the framework contracts contravened Section 114(1)(c) of the Public Procurement and Asset Disposal Act, 2015 which provides that a procuring entity may enter into a framework agreement through open tender only if a minimum of seven (7) alternate vendors are included for each category.

Further, the payments includes payments amounting to Kshs.3,598,600 spent on rent payments for Ward offices in the year under review. However, the offices were directly procured contrary to Section103(2) (a) of the Public Procurement and Asset Disposal Act, 2015. The law allows for use of the method in specified conditions but no records were provided for audit to confirm existence of any special conditions.

In the circumstance, Management was in breach of the law and value for money may not have been obtained on rent payments

126. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

During the year under review, Management made payments amounting to Kshs.2,127,500 made for hire of conference facilities for meetings held outside Embu County. However, no satisfactory reasons were provided by Management for holding the meetings outside Embu County contrary to Treasury Circular No. 20/2015 of 4 November, 2015 which requires all Accounting Officers to hold all workshops and retreats within the precincts of the duty station where the majority of participants work.

In the circumstance, Management was in breach of the law

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

127. Lack of Audit Committee and Risk Management Policy

As reported in the previous year, the County Assembly had not established an Audit Committee as well as developing a risk management policy. In the absence of oversight by an Audit Committee, the County Assembly's internal control and

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governance systems were not properly set up. Further, failure to develop risk management policy exposes the County Assembly to risk which could otherwise have been mitigated upon thereby reducing the incidence or the extent of the damage upon crystallization.

In the circumstances, the existence of a vibrant mechanism to offer oversight role as well as mitigate operational and other risks faced by the County Assembly against any risk, could not be confirmed.

128. Lack of Information, Communication and Technology (ICT) Policy

As reported in the previous year, review of the County Assembly's use of information Communication Technology (ICT) indicated, that there was no approved policy to guide investment on the use of the technology.

As a result, use of ICT by the County Assembly, including procurement of assets and security and the reliability of the electronic data, may not be effective.

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COUNTY ASSEMBLY OF KITUI – NO.15

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

129. Variances Between Financial Statements and IFMIS Balances

Review of the financial statements for the year ended 30 June, 2020 revealed several balances that were significantly at variance with Integrated Financial Management Information System (IFMIS) Trial Balance. However, no reconciliation or explanation has been provided for the discrepancies between the two sets of records.

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

130. Unsupported Expenditure - Remuneration of Ward Offices Staff

The statement of receipts and payments reflects an expenditure of Kshs.434,877,918 under compensation to employees which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.47,215,307 relating to basic wages of temporary employees. The expenditure of Kshs.47,215,307 was incurred on salaries and allowances for staff employed in the forty (40) Ward Offices across the County. However, supporting documents indicating how the officers were recruited and their terms of service determined, were not provided for audit review.

In the circumstances, the propriety of the expenditure amounting to Kshs.47,215,307 incurred on ward offices employees could not be confirmed.

131. Unsupported Payments – Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.400,164,031 under use of goods and services.

131.1. Payments for Communications Services

The balance includes an amount of Kshs.7,932,616 relating to communication, supplies and services. The latter balance includes an amount of Kshs.817,368 paid to a service provider for internet connectivity. However, a formal contract agreement stipulating the terms and conditions of services was not provided for audit review.

131.2. Payments for Ward Operational Expenses

Further, the balance includes an amount of Kshs.67,995,712 in respect of other operating expenses which in turn includes Kshs.50,497,600 for wards' operational expenses. The expenditure was incurred through imprests issued to forty (40) legislative wards of the County Assembly. Further, an amount of Kshs.100,000 was paid monthly to each of the forty (40) wards to cater for costs of facilitation of county

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residents and for general ward offices expenses. However, supporting documents for the expenditure were not provided for audit review.

In the circumstances, the propriety of the expenditure amounting to Kshs.51,314,968 included in the use of good and services balance of Kshs.400,164,031 in the statement of receipts and payments could not be confirmed.

Other Matter

132. 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, Report on Effectiveness of Internal Controls, Risk Management and Governance. Although, the Management has indicated that the issues have been responded to the matters have remained unresolved as the Senate has not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

133. Irregular Payment of Penalties and Interest

The statement of receipts and payments reflects an expenditure of Kshs.4,118,418 under other payments which, as disclosed in Note 12 to the financial statements relates to penalties and interest due to late remittance of Pay-As-You-Earn (PAYE) deductions to the Kenya Revenue Authority (KRA). No explanation was provided for failure to remit the PAYE deductions to the Kenya Revenue Authority as required by Section 130 of the Income Tax Act, 470 which states Pay As You Earn deducted from employees' earnings should be remitted by the tenth day of the month following the deduction.

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

134. Irregular Payment to County Assemblies Forum

During the year under review, an amount of Kshs.4,488,800 was paid to the County Assemblies Forum (CAF) to cater for County Assemblies sports and cultural bonanza during the annual legislative summit. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. Further, specific activities being funded and the basis for such payment were not provided for audit review.

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

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

During the year under review, thirteen (13) officers of the County Assembly were paid net salaries that were less than one third (1/3) of their basic salaries. This is contrary to Section 19(3) of the Employment Act, 2007 which states that the total deductions made by an employer from the wages of their employees at any one time should not exceed two thirds of such wages.

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

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

A review of the County Assembly's staff establishment for the year under review revealed that, the total number of employees was one hundred and thirty-six (136) out of whom one hundred and thirty-one (131) or 95% were from the dominant local community in the County. This is 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 one ethnic community.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

137. Weaknesses in Internal Controls

Although the County Assembly appointed an Audit Committee of three (3) members, minutes of the Audit Committee meetings to show that the committee was robust and active were not provided for audit review. The Audit Committee was dormant and the expected assurance on risks management and internal controls may not have been not realized.

Further, the effectiveness of the internal audit function reports functionally to the Clerk who is the Accounting Officer of the County Assembly thereby impairing its independent.

In the circumstances, the internal audit function and the Audit Committee independence and ability to effectively play their oversight role over the operations of the County Assembly could not be established.

138. Lack of Risk Management Policy and Disaster Recovery Plan

During the year under review, the County Assembly did not have a Risk Management Policy, and Disaster Recovery and Business Continuity Plan in place. This would have assisted it to develop risk management strategies to enable the County to identify and manage risks in order to improve on effective and efficient management of public resources as well as ensuring minimum business interruption in an event of a disaster.

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In the circumstances, existence of a vibrant risk management mechanism to mitigate against loss of critical information and assets in an event of a disaster could not be established.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

139. Variances Between Financial Statements and IFMIS Balances

Review of the financial statements revealed that several balances which differ significantly with respective accounts balances reflected in the Integrated Financial Management Information Systems (IFMIS) trial balance.

Further, statement of financial assets and liabilities does not reflect the opening balance of Kshs.421,325 which was reflected in the audited financial statements for the year ended 30 June, 2019. The balance ought to have been reflected as the opening balance for the year under review. No satisfactory explanation was provided by Management for the omission of the opening balance from the financial statements.

As a result, the accuracy and completeness of the financial statements could not be confirmed.

140. Discrepancies in Bank Balances

As disclosed in Note 13A to the financial statements, the statement of financial assets and liabilities reflects bank balances totalling Kshs.88,059,091 as at 30 June, 2019. However, examination of records revealed that the reconciled bank balance was Kshs.24,109,309 resulting to an unreconciled balance of Kshs.63,949,782 between the two sets of records.

140.1 Variances in Bank Balance

Bank reconciliation statements for the accounts reflected cash book balances totalling Kshs.24,109,309 as at 30 June, 2020 against Kshs.88,059,091 reflected in the financial statements. Management did not provide a Board of Survey report to support the reported balances.

140.2 Undisclosed Deposits and Retentions Bank Balances

Further, the reported cash and cash equivalents balance of Kshs.88,059,091 excludes a sum of Kshs.2,472,429 held under deposits account at the Central Bank of Kenya. Although Note 13A to the financial statements has disclosed that the funds held in the account belong to third parties, the deposits were part of the financial assets and liabilities of the County Executive as at 30 June, 2020 should therefore have been disclosed in the financial statements as part of bank balances and accounts payables-deposits and retentions, respectively.

In addition, the statement of financial position reflects nil balance under accounts payables- deposits and retention.

In the circumstance, the accuracy and completeness of the financial statements could not be ascertained.

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141. Unsupported Expenditure - Training Expenses

As disclosed in Note 5 to the financial statements, the statement of receipts and payments indicated that during the year under review, the County Assembly incurred training expenses amounting to Kshs.32,542,895. However, payments amounting to Kshs.3,921,936 were not adequately supported with relevant documents including records on travel and attendance at the indicated training sites.

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

In addition, during the year under review, a local firm was paid Kshs.501,206 for provision of car hire services to the County Executive. However, records on requisition for the services by the user-department, and on the process applied to select the firm, were not provided for audit.

In the circumstances, it was not possible to confirm the propriety and regularity of the expenditure amounting to Kshs.4,093,142 could not be confirmed.

142. Irregular Expenditure on Ward Office

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

However, the recommendations made by the Department of Public Works on the rent payable for each of the Offices and the guidelines indicating the maximum monthly payments authorized for Ward office rent and other operational expenses were not provided for audit review.

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

In view of these issues, the regularity and propriety on the expenditure amounting to Kshs.28,788,000 incurred on the Ward offices in the year under review could not be confirmed.

143. Unconfirmed Balance - Pending Accounts Payables

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

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

(i) An amount of Kshs.4,129,939 shown as owed to a tour services firm under Annex 1 indicated that the amount was Kshs.3,222,439 resulting to an overstatement by Kshs.907,500;

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

(iii) An amount of Kshs.12,600 reported as due to a motor-vehicle repair garage indicated that the garage was owed Kshs. 21,600 thus understating the liability by Kshs. 9,000.

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

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

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

Other Matter

144. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development combined reflects budgeted receipts and actual on comparable basis of Kshs.1,298,145,156 and Kshs.1,001,910,088 respectively resulting in a revenue shortfall of Kshs.296,235,068 or 23% of the approved budget. Similarly, the County spent an amount of Kshs.913,850,996 against the approved budget of Kshs.1,298,145,156 resulting to under absorption of Kshs.384,294,160 or 30% of the approved budget. Management attributed underfunding to the shortfall in the Exchequer releases.

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

145. 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, Report on Effectiveness of Internal Controls, Risk Management and

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Governance. However, the Management has not resolved the issues of [illegible] any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref. No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

146. Unsatisfactory Implementation of Projects - Delayed Construction of Ward Offices

Examination of records on implementation of projects during the year under review revealed the following unsatisfactory issues:

(i) Review of the procurement records indicated that Management awarded contracts for construction of twelve (12) Ward Offices commencing July, 2019.

(ii) The projects were to be completed in December, 2019 but at the time of the audit in October, 2020, none had been completed.

(iii) An additional nine (9) such contracts were awarded in June, 2020 under Phase Two of the project.

(iv) Although the works were to be completed after five months' time, only one of the nine projects had been completed at the time of the audit in October, 2020.

(v) The building inspection records to confirm that the Ward Offices were inspected and certified by the relevant Government departments as safe and fit for occupation while lease agreements between the County Assembly and the respective landlords' premises.

(vi) The architectural designs and approvals for the projects and the title deeds for the plots of land on which the Offices were constructed were not provided for audit review.

(vii) In addition, contrary to Section 207(2) of Public Finance Management Act, 2012, there was no evidence that public participation activities were carried out to identify locations for the Ward Offices.

As a result, the regularity and value for money on the contracts could not be confirmed.

147. Failure to Install Gymnasium Equipment

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

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

In the circumstances, value for money has not been realized on the expenditure amounting to Kshs.3,984,623 could not be confirmed.

148. Delayed to the Utilisation of Passenger Lift

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

Available information indicates that the lift was later installed but had not been inspected and put to use by the time of the audit in October, 2020 although a request for its inspection had been made to the County Public Works Officer on 10 July, 2020. Further, information obtained during the audit indicated that the design of the lift's housing area was inappropriate and the electric supply available in the building was not sufficient for its operation.

In the circumstances, value for money has not been realized on the expenditure amounting to Kshs.10,119,041 could not be confirmed.

149. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

The County Assembly spent Kshs.3,243,771 on purchases of fuels and oils during the year under review, as disclosed in Note 5 to the financial statements. However, the firm appointed to supply the items was not in the list of the County Assembly's prequalified suppliers while the records on the process followed in making the appointment were not provided for audit review. This is contrary to Section 95(3) of the Public Procurement and asset Disposal Act, 2015 which provides that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified.

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

150. Non-Compliance with the One-Third of Basic Pay Rule

The statement of receipts and payments reflect compensation of employees' costs totalling Kshs.387,763,769, as disclosed in Note 4 to the financial statements. However, examination of records on the expenditure indicated that thirteen (13) employees were paid net salaries that were less than one-third of their basic pay contrary to the provisions of Section 19(3) of the Employment Act, 2007 and the County Assembly Human Resource Manual of 2015, which provide that, total deductions from an employee's wages should not exceed two-thirds of such wages.

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

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151. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015 - Fiscal Discipline

The compensation of employees' costs totalling Kshs.387,763,769 incurred during the year were equivalent to 39% of the revenue receipts for the year totalling Kshs.1,001,910,088. The ratio was above the threshold of 35% prescribed in Section 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. Further, the high wage bill may constrain the ability of the County Assembly to fund its legislative and governance activities.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

152. Weak Internal Control - Failure to Maintain Proper Stores Records and Ledgers

During the year under review, examination of the stores' records indicated that Management did not maintain store ledgers to keep track of receipts, issues and balances on assorted stationery and cleaning materials purchased at a cost of Kshs.5,149,001. As a result, it has not been possible to confirm outstanding stock balances and whether the items issued were used for the intended purposes. Further, the risk of stock-outs and loss of stock was high. In addition, the County Assembly did not maintain individual creditors ledger or register. As a result, Management's control on movement in creditors balances was weak.

In the circumstances, the existence of an internal control mechanism to monitor stocks and creditor balances could not be confirmed.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

153. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following discrepancies:

153.1. Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.5,829,095 which differs with the balance of Kshs.5,667,670 in the statement of cash flows. The difference amounting to Kshs.161,425 between the two sets of records has not been explained.

Further, the statement of cash flows reflects net cash flows from operating activities amounting to Kshs.61,361,617. However, a recast of the account balances included therein amounted to Kshs.62,361,617 resulting to an unexplained variance of Kshs.1,000,000.

In the circumstances, the accuracy of the reported cash and cash equivalents balance reflected in the financial statements could not be confirmed.

153.2. Variances Between Financial Statements and IFMIS Balances

Examination of balances reflected in the financial statements and the Integrated Financial Management Information System (IFMIS) records as at 30 June, 2020 revealed a number of discrepancies arising from differences in various account balances reflected in the two sets of records.

In view of these discrepancies, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

154. Unsupported Expenditures Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.335,149,955 in respect of use of goods and services payments. Review of the expenditure revealed the following unsatisfactory matters:

154.1. Domestic Travel and Subsistence Allowances

The balance includes domestic travel and subsistence balance of Kshs.88,767,265 which includes an amount of Kshs.1,263,600 spent by Members of the County Assembly Service Board (CASB) on travel to Mombasa. However, the documents that supported the payment indicated that the imprests were approved for travel to Nairobi and Kisumu for a benchmarking assignment. There was no indication that the Accounting Officer approved the change in the itinerary. In addition, the nature of the assignment carried out by the Board in Mombasa was not disclosed

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154.2. Foreign Travel and Subsistence Allowances

The balance includes foreign travel and subsistence balance of Kshs.13,140,467 which includes an amount of Kshs.228,134 paid to a Member of the County Assembly (MCA) in December, 2019. The supporting records indicated that the allowances were paid for travelling to Kampala, Uganda, to participate in the East African Legislative Assembly (EALASCA) games between 1st to 8th August, 2019. However, documents on the Officer's travel and attendance at the event were not presented for audit.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

155. Inaccuracies in the Financial Statements

Review of the financial statements revealed a number of inaccuracies as enumerated below:

155.1. Statement of Receipts and Payments

The statement of receipts and payments reflects payments amounting to Kshs.820,111,974 however a recasting of the balances reflected in the statements indicates an amount of Kshs.819,257,184 resulting to an unexplained variance of Kshs.854,790.

Further, the statement reflects use of goods and services of balance of Kshs.285,587,511 whereas the disclosure Note 3 to the financial statements reflects an amount of Kshs.286,442,301 resulting to a variance of Kshs.854,790 which has not been reconciled nor explained.

155.2. Statement of Cashflows

The statement of cashflows reflects cash and cash equivalents at beginning of the year of Kshs.27,608,760 instead of the prior year cash and bank balances of Kshs.29,904,445 resulting to an unexplained variance of Kshs.2,295,685.

Further, Prior year adjustments amounting to Kshs.2,295,685 were omitted in the statement of cashflows.

155.3. Statement of Financial Assets and Liabilities

The statement of financial assets and liabilities reflects comparative accounts payables balance of Kshs.27,608,760 while the corresponding disclosure Note 11 to the financial statements is nil, leading to a variance of Kshs.27,608,760 which has not been reconciled nor explained.

Further, the statement of financial assets and liabilities reflects accounts receivable-outstanding imprest of Kshs.854,790. However, the imprest register in support reflects a balance of Kshs.10,206,457, resulting to an unexplained variance of Kshs.9,351,667.

In addition, the statement of financial assets and liabilities reflects accounts payable of Kshs.38,714,724 being retention amounts on contractor payments. However, the deposits ledger provided reflects a balance of Kshs.40,996,713, resulting to an unexplained variance of Kshs.2,281,989.

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155.4. Summary Statement of Appropriation

The summary statement of appropriation - recurrent reflects final budget of Kshs.664,666,930 on both total receipts and total payments, recast of the figures reflects Kshs.672,542,930 resulting to unexplained variance of Kshs.7,876,000 on total budget.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

156. Non-Reconciliation of Bank Balances

As disclosed in Note 6A to the financial statements, the statement of financial assets and liabilities reflects bank balances of Kshs.38,714,724 all of which was held in a deposit account at the Central bank of Kenya. However, examination of records provided for audit revealed that the deposits account cashbook balance of Kshs.38,714,724 differs significantly with the certificate of bank balance of Kshs.4,626,366 and no bank reconciliation statement has been provided to explain the discrepancy. The Development bank account statements for the months of October, 2019 and June, 2020 revealed that payments amounting to Kshs.23,021,177 were transacted through the bank but no details of the payees were disclosed.

Further, the recurrent account bank reconciliation statement for the month of June, 2020 shows payments in the cashbook but not in the bank of Kshs.3,468,811 out of which two payments totalling to Kshs.411,400 have been outstanding for periods exceeding six months. No explanation has been provided why the payments have not been paid by Central Bank of Kenya despite transactions being on real time basis; while reversal of payments amounting to Kshs.5,780,218 in respect to period between 20 August, 2019 and 10 June, 2020 was not explained.

In addition, the reported bank balances also exclude the amounts held in the bank accounts by the twenty-five (25) wards that constitute the County. Details of the outstanding bank balances, cashbooks, bank statements and bank reconciliations have not been provided for audit review.

In the circumstances, the accuracy, completeness and validity of the bank balances of Kshs.38,714,724 as at 30 June, 2020 could not be confirmed.

157. Unsupported/Unaccounted Expenditure - Use of Goods and Services

As disclosed in Note 3 to the financial statements, the statement of receipt and payments reflects an expenditure of Kshs.285,587,511 in respect of use of goods and services. The following unsatisfactory observations were noted: -

157.1 Domestic Travel Expenses

The balance includes an expenditure of Kshs.93,536,135 on domestic travel and subsistence which includes claims amounting to Kshs.3,809,800 that were paid to various staff while on trips made outside the County. Although the amounts should have been charged under foreign travel expenditure, the claims were unsupported by work tickets or bus tickets.

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157.2 Foreign Travel and Subsistence Expenses

Further, the balance constitutes an amount of Kshs.21,432,861 that was spent on foreign travel and subsistence, out of which an amount of Kshs.5,786,271 was paid to twenty-six (26) officers on various dates to undertake foreign trips. The balance was not unsupported with invitation letters, stamped passports, and flight boarding passes to confirm whether or when the officers travelled outside the country.

157.3 COVID - 19 Expenses

The balance constitutes a balance of Kshs.56,220,915 spent on hospitality supplies and services which includes an amount of Kshs.7,894,450 spent on COVID-19 related activities at various forums during national celebrations and consultative meetings. However, the money was issued to individuals in form of imprests but no surrender returns have been provided to confirm the funds utilization. Further imprest amount of Kshs.10,293,532 comprising Kshs.3,977,873 paid to seven (7) officers and Kshs.6,315,659 paid to various hotels and supermarkets to facilitate conferences and seminars was not supported by way of attendance lists, invoices for the venues, meeting reports and certificates of participation.

157.4 Professional Services

The balance includes an amount of Kshs.33,749,980 in respect of other operating expenses. The amount includes Kshs.321,250 paid to a law firm for legal services and Kshs.500,000 for contracted professional services, all totalling to Kshs.821,250. However, no payment vouchers with the supporting documents such as fee note and delivery note have been provided for audit verification.

157.5 Training Expenses

The balance also includes expenditure amounting to Kshs.12,144,199 on training expenses. However, payment vouchers in support of the expenditure amounting to Kshs.3,482,360 paid to various institutions of learning and individuals were not supported with Local Service Orders (LSOs), invoices, invitation letters, certificates of participation, signed attendance sheets and training programmes. A further expenditure of Kshs.3,732,200 made to various banks in respect of training activities was not supported with a schedule of beneficiaries indicating details of the training activities.

157.6 Fuel, Oil and Lubricants

Included in the use of goods and services is an amount of Kshs.6,000,000 which was spent on fuel, oil and lubricants. However, examination of documents provided for audit revealed that fuel valued at Kshs.200,589 was reflected in a supplier's statements but not recorded in the work tickets. Further, fuel valued at Kshs.578,657 was reflected as drawn by the County Assembly's vehicles in the statement of the supplier based at Ol Kalou while the vehicles work tickets indicated they were at a different locality.

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From the foregoing, the accuracy and completeness of the expenditure on use of goods and services of Kshs.285,587,511 for the year ended 30 June, 2020 could not be confirmed.

158. Unreconciled Balances - Variance in Acquisition of Assets

As disclosed in Note 5 to the financial statements, the statement of receipt and payments reflects a balance of Kshs.168,722,632 in respect of acquisition of assets which includes an amount of Kshs.156,207,263 spent on construction of buildings. However, the ledger in support of the expenditure reflects a balance of Kshs.155,062,763, resulting to an unexplained variance of Kshs.1,144,500.

Further, the expenditure on the construction of buildings constitutes an amount of, Kshs.137,937,603 which relates to payment made to a contractor for the construction of the Assembly's office block. However, it was noted that one payment certificate number 20 was used to make two separate payments of Kshs.46,189,205 and Kshs.35,099,644 on 11 July, 2019 and 28 January, 2020 respectively, vide payment vouchers numbers 6 and 8 respectively. Other certificates number 19 and 25 were missing in the serials were not provided for audit.

In the circumstances, the accuracy and value for money on acquisition of assets amounting to Kshs.168,722,632 for the year ended 30 June, 2020 cannot be confirmed.

Other Matter

159. Pending Bills

Annexes 1 to the financial statements discloses pending bills balances of Kshs.14,223,890 and were not supported by way of supplier delivery notes, invoices and fee notes. 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 distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

In the circumstances, the accuracy of the pending bills of Kshs.14,223,890 as at 30 June, 2020 cannot be confirmed.

160. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: The National Treasury and Planning letter reference No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

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Basis for Conclusion

161. Delay in Appointment of Clerk to the County Assembly

The Clerk to the County Assembly resigned from the position effective 1 January, 2019 and an officer was appointed to serve in an acting capacity. However, as at the time of finalizing the audit in October, 2020, the position had not been substantively filled, 22 months after the resignation. This is contrary to Clause 2.7.4 of the Human Resource Management Manual of the County Assembly which states that employees may be appointed to temporarily take on responsibilities of a higher job grade to support a specific business need for a period not exceeding six (6) months.

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

162. Variation of Construction Works

During the year under review, the County Assembly awarded a contract for the construction of buildings at a contract cost of Kshs.178,826,470. However, examination of payment certificates relating to construction of buildings payments reflects variation orders that have resulted in the works that had originally been quoted at a cost of Kshs.178,826,470 rising to Kshs.268,074,460, an escalation of Kshs.89,247,990 or 49.9%, as per certificate number 26 of 7 April, 2020. This is contrary to the Section 139 (4) (e) of the Public Procurement and Assets Disposal Act, 2015 which states that the cumulative value of all contract variations should not result in an increment by more than twenty-five per cent (25%) of the original contract price.

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

163. Delay in Completion of Office Block

The construction of the office block commenced in October, 2017 and with expected completion date of 9 April, 2019, a period of 78 weeks. As at the time of audit site verification in October, 2020, the work was incomplete despite 80 weeks having lapsed after the initial expected completion date and the granted extension of 42 weeks which may lead to the risk of cost escalations. There was also no evidence of approval for the extension granted having complied with Section 139(1)(a) of the Public Procurement and Assets Disposal Act, 2015 that requires the variation or amendment to a contract be approved in writing by the respective tender awarding authority within a procuring entity. Further, the monthly site meeting reports for the period between December, 2019 to October, 2020 were not provided for audit.

In the circumstances, the project is behind schedule on its implementation and the value for money has not been realized with the continued delay.

164. Irregular Payment of Subscriptions

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects use of goods and services balance of Kshs.285,587,511 which

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includes other operating expenses amounting to Kshs.33,749,980. Included in the payments are two payments to the County Assembly Forum and Society of clerks-at-the-table of Kshs.5,000,000 and Kshs.500,000 respectively. The expenditure was charged to Membership Fees, Dues and Subscriptions to Professional and Trade Bodies yet the two institutions are not professional or trade bodies. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

165. Irregular Procurement of ICT Equipment

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects acquisition of assets expenditure balance of Kshs.168,722,632 which includes purchase of ICT equipment cost of Kshs.4,498,813. Of this amount, Kshs.2,080,500 was incurred on purchase of computers and printers from a supplier. However, the acquisition was made using direct procurement with no evidence of bids having been sought from several bidders as required contrary to Section 74 (2) of the Public Procurement and Disposal Act, 2015 which states that in preparation of an invitation to tender, the accounting officer shall ensure that all tender documents are sent out to eligible bidders by recorded delivery.

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

166. Non-Compliance with Laws on Statutory Deductions

Review of Human Resource records revealed that nine (9) interns were contracted by the Assembly for five months between February to June, 2020, and were paid Kshs.446,895 gross amounts without deduction of the mandatory statutory deductions to National Hospital Insurance Fund (NHIF) and National Social Security Fund (NSSF). This is contrary to Section 19 of the Employment Act which states that an employer may deduct from the wages of his employee any amount due from the employee as a contribution to any provident fund or superannuation scheme or any other scheme approved by the Commissioner for Labour to which the employee has agreed to contribute.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

167. Weakness in the Internal Audit Function

Review of the staff establishment schedule for the year 2019/2020 revealed that the internal audit department had an authorized establishment of five (5) officers but only three (3) were in post, resulting in a shortage of two (2) positions which has remained vacant. Further, the internal audit staff did not have access rights to the Integrated

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Financial Management Information System (IFMIS) and the Integrated Personnel and Payroll Database (IPPD) systems.

In the circumstances, the internal audit department may not make an impact in its role to review the effectiveness of the financial and non-financial performance management systems of the entities.

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

168. Weak of Risk Management Preparedness

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. In the circumstances, Management did not perform formal risk assessments on all key financial risk areas such as cash, revenue and expenditure.

Further, it was noted that the Management lacked a disaster recovery plan. Management is not therefore, in a position to identify individual risks, significance areas, likelihood of occurrence of identified risks and the appropriate control measures and crucial information may not be recovered in the event of a disaster.

In the circumstances, the existence of an effective risk management mechanism could not be established.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

169. Inaccuracy of the Financial Statements

Review of the financial statements revealed several balances reflected in the Integrated Financial Management System, IFMIS Trial Balance but could not be traced in the financial statements for the year ended 30 June, 2020. Further, the financial statements reflected balances in respect to six (6) account items that differs from those reflected in the Integrated Financial Management System (IFMIS) records against the respective accounts. No explanation has been provided by Management for the omissions and variances between the two sets of records.

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

170. Unconfirmed Wage Payments to Temporary Employees

The statement of receipts and payments reflects an expenditure of Kshs.210,664,265 under compensation of employees which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.30,547,795 incurred on basic wages for temporary employees in the ward offices. However, and as previously reported, manual payment vouchers were used to pay the wages instead of paying through the Integrated Payroll and Personal Data (IPPD) System while muster rolls and the attendance register were not provided to confirm authenticity of the payments.

Under the circumstances, the accuracy, occurrence and validity of the expenditure of Kshs.30,547,795 incurred temporary employee wages could not be confirmed.

171. Unsupported Expenditure

The statement of receipts and payments reflects an expenditure of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.29,976,017 relating to training expenses. The latter balance includes a balance of Kshs.920,000 in respect of training on public relations and stakeholders management programme of eight participants from 20 to 24 January, 2020 in Arusha Tanzania. However, the annual training program, training needs assessment and nature of duties assigned to the staff who attended the training were not provided for audit review.

Further, the balance includes an amount of Kshs.1,908,707 in respect of routine maintenance for vehicles and other transport equipment. The latter balance includes an amount of Kshs.985,232 paid to a dealer for the repairs and maintenance of motor vehicle, for the replacement of the vehicle engine. The dealer was issued with a Local Purchase Order on 4 June, 2020 for the repairs. However, no inspection report from the Chief Mechanical Engineer was provided to ascertain the defects on the vehicle making it difficult to justify the expenditure incurred.

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In the circumstances, it was not possible to confirm whether the training programs was relevant to the staff in performance of their duties.

172. Irregular Payment of Subscription Fees

The statement of receipts and payments reflects a balance of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.36,138,419 in respect of other operating expenses which in turn includes amounts of Kshs.5,300,000 and Kshs.500,000 relating to subscription fees made to the County Assemblies Forum (CAF) and the Society of Clerks at the Table (SOCAT), respectively. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

173. Pending Bills

Annexure 1 to the financial statements reflects outstanding pending bills amounting to Kshs.3,025,164 as at 30 June, 2020. However, the creditors ageing analysis was not provided for audit verification. However, procurements records on legal consultancy and related fees amounting to Kshs.1,398,660 were not provided. In addition, supporting documents for an amount of Kshs.330,000 owed to the Kenya Industrial Estate (KIE) were not provided for audit review. Further, the analysis of pending bills did not include the original amount, amount paid to date and amount outstanding from the previous year as required in the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).

Management has not provided an explanation for non-payment of the pending bills.

Other Matter

174. 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, Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular AG.4/16/3 Vol.1(9) dated 24 June, 2020.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

175. Late Remittance of Statutory Deductions

The statement of receipts and payments reflects an expenditure of Kshs.343,213,821 under use of goods and services which, as disclosed in Note 5 to the financial

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statements, includes an amount of Kshs.36,138,419 in respect of other operating expenses. The latter balance includes an amount of Kshs.564,629 paid to LAPFUND on 18 September, 2019, being outstanding interest for late remittances of pension and gratuity over the years dating back to 2015. The penalties would have been avoided had the Management paid the statutory deductions within the set timelines.

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

Examination of human resource records revealed that the County Assembly had fifty (50) permanent employees comprising eleven (11) inherited staff at the inception of devolution and thirty-nine (39) staff recruited by the County Assembly Service Board. However, thirty-seven (37) or 94.8% out of thirty-nine employees recruited by the County Assembly Service Board were from the dominant ethnic community in the County. This is contrary to Section7(2) of the National Cohesion and Integration Act, 2008 and Section 65(e) of the County Governments Act, 2012 which requires the County Governments to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

In the circumstances, Management was in breach of law.

177. Delayed Completion of Projects

As previously reported, the Management awarded two contracts valued at Kshs.10,672,231 in July, 2016 for construction of a gate at the County Assembly and refurbishment of a hospitality facility for use by the County Assembly at contract sums of Kshs.3,818,905 and Kshs.6,853,326, respectively. The works were to be completed in February and August, 2017, respectively. However, the respective contracts lapsed before the works were completed. Although all payments due had been made to the contractors and the works had not been completed and was at 98% and 90% and abandoned. The contractors were, however, not on site and no explanation was provided for failure to complete the projects more than three (3) years after their contractual completion dates.

As a result of the delay, and in spite of funds totalling Kshs.10,672,231 invested in the projects, the benefits which were expected to accrue to the County Assembly have not been realized.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

178. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following variances between records which have not been reconciled as outlined below:

178.1. Variances Between the Financial Statements and Integrated Financial Management Information System (IFMIS) Balances

The financial statements reflect balances in respect to four (4) accounts, which significantly differ with the respective balances reflected in the Integrated Financial Management System (IFMIS) records as shown below:

Item	Note	Balance in Financial Statements (Kshs.)	Balance in IFMIS Records (Kshs.)	Variance (Kshs)
Compensation of Employees	4	242,170,171	257,596,491	(15,426,320)
Use of Goods and Services	5	292,008,119	276,670,874	15,337,245
Social Security Benefits	9	20,710,829	21,622,842	(912,013)
Acquisition of Assets	10	15,739,716	14,874,743	864,973

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

178.2. Unexplained Variance in Accounts Receivables Comparative Balance

Further, the statement of financial assets and liabilities reflects an accounts receivable balance brought forward of Kshs.5,054,286, as disclosed in Note 14 to the financial statements. However, the certified 2018/2019 financial statements reflected a balance of Kshs.488,765 in respect to the account resulting to an increase of Kshs.4,565,521 from the previous year which has not been explained.

In the circumstance, the accuracy of the financial statements for the year ended 30 June, 2020 could not confirmed.

179. Misstatement of Pending Bills

Note 7.10.1, other important disclosures, reflects nil balance in respect of pending bills as at 30 June, 2020 and at the beginning of the year on 1 July, 2019; and nil additions or payments in the year. However, the audited financial statements for 2018/2019 financial year reflected pending bills totalling Kshs.5,223,399 as at 30 June, 2019 resulting to a deviation of Kshs.5,223,399 which has not been explained. Further, Annex 1- analysis of pending accounts payable - reflects pending bills totalling Kshs.3,602,250.

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In view of the anomalies in the disclosure and presentation of the pending bills balance, the value of the pending bills and accounts payables owed by the County Assembly as at 30 June, 2020 could not be confirmed.

180. Unsupported Expenditure on Security Services

Examination of expenditure records on purchase of goods and services indicated that a sum of Kshs.1,268,000 was paid to a private firm for security services provided to the County Assembly. However, the payment was not supported with the contract agreement signed with the firm.

In the circumstance, the propriety on the expenditure amounting to Kshs.1,268,000 paid to the firm could not be confirmed.

Other Matter

181. Budgetary Control and Performance

The summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.690,254,050 and Kshs.570,764,950 respectively, resulting to an under-funding of Kshs.119,489,100 or 17% of the budget. Similarly, the County Assembly spent Kshs.570,650,061 against an approved budget of Kshs.690,254,050 resulting to an under-expenditure of Kshs.120,674,868 or 17% of the budget.

The revenue shortfall constrained implementation of projects and activities planned for execution during the year.

182. 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, Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management asserts all five issues raised in the report for the prior year had since been resolved. However, no evidence was cited or provided to confirm the assertion made by Management. In view of the omission, the report does not fulfil the requirements set by the Public Sector Accounting Standards Board (PSASB) and The National Treasury's Circular Ref AG.4/16/2 Vol.3(72) dated 30 June, 2021.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

183. Irregular Payment of Personal Allowances and Salaries

Examination of personnel records indicated that payments of personal allowances amounting to Kshs.91,169,834 included a sum of Kshs.901,462 paid manually outside the Integrated Payroll and Personnel Database (IPPD) system. The payments were made to five (5) officers who were recruited during the year under review. Further,

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records on advertisements for the vacancies and the processes followed in appointing the officers to the posts were not provided for audit review. It was not possible to confirm whether the officers were recruited in a lawful way

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

184. Non-Compliance with County Public Service Human Resource Manual 2013 on Staff Establishment

During the year under review, the County Assembly did not have an approved staff establishment, contrary to Section B 5(2) and Section B 6(3) of the County Public Service Human Resource Manual 2013. The provision requires each County Government entity to maintain optimum staffing levels derived from an authorized establishment and organization structure.

In the circumstances, it was not possible to confirm whether the staffing and the organization structure of the County Assembly were optimized.

185. Non-Compliance with the County Governments Act, 2012

Examination of personnel records indicated that the County Assembly had one hundred and thirty (130) employees as at 30 June, 2020 out of whom five (5) staff were recruited during the year under review. However, all the new employees were from the dominant ethnic community in the County contrary to Section 65 1(e) of the County Governments Act, 2012 which requires at least thirty percent of the vacant posts at entry level to be filled by candidates who are not from the same community in the County.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

186. Lack of Information, Communication Technology (ICT) Plans

Review of internal control and risk management system indicated that the County Assembly did not have a Disaster Recovery Plan and documented emergency procedures to develop a system of risk management and internal control that builds robust business operations.

In the circumstances, continuity of operations and recovery of vital data and information in the system may not be possible should unexpected events occur.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

187. Accuracy of Cash and Fund Balances

The statement of financial position reflects cash and cash equivalent balance of Kshs.4,886,229. However, examination of records revealed that the balances reflected in the statement of financial assets and liabilities as at 30 June, 2020 differ with those reflected in respect to the accounts in the Integrated Financial Information System (IFMIS) ledger of Kshs.8,879,4444.50 by Kshs.3,993,215. No reconciliations or explanation have been provided for the variances.

In the circumstances, the accuracy and completeness of the cash and cash balance of Kshs.4,886,229 reflected in the financial statements could not be confirmed.

188. Reconciliation of Compensation of Employees

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects compensation of employees' payments amounting to Kshs.260,945,725. However, review of payroll records indicated a balance of Kshs.187,544,558 resulting in an aggregate difference of Kshs.73,401,167. Management did not provide any explanation for the variance.

In the circumstances, the accuracy and completeness of the compensation to employees' expenditure totalling Kshs.260,945,725 reflected in the financial statements could not be confirmed.

189. Foreign Travel and Subsistence

The statement of receipts and payments reflects an amount of Kshs.35,466,801 in respect of foreign travel and subsistence which includes subsistence allowance claims amounting Kshs.7,782,336 paid to twenty (20) members of the County Assembly and members of staff who attended various meetings in foreign countries. However, examination of records on the trips revealed that the staff and MCAs supposedly used their own resources to finance the trips and claimed for refunds thereafter. However, there were no records on authority to do so having been granted to them by the Accounting Officer.

Further, no reports were prepared by the participants upon return, were not submitted for audit review to show the purpose and results of the trip.

In view of the anomalies, it was not possible to confirm that the payments totalling Kshs.7,782,336, were a proper charge to public funds.

190. Unconfirmed Value of Assets

Annex 4 to the financial statements and a summary of fixed asset register reflects assets with historical costs of Kshs.465,595,953 as at 30 June, 2020. However, the

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balance constitutes the value of parcels of land of Kshs.127,000,000 whose title deeds or ownership documents were not provided for audit verification. Further, no valuation reports for the above parcels of land was provided for audit review.

Further, computers, furniture and other equipment did not have tag numbers to identify and track their locations and users and as a result, the risk of their misplacement or loss was high.

In the circumstances, the completeness and accuracy of the fixed assets balance totalling to Kshs.465,595,953 as at 30 June, 2020 could not be confirmed.

191. Unsupported Pending Bills

As disclosed in Note 7.10 to the financial statements - other disclosures are pending bills amounting to Kshs.59,939,650 which constitutes an amount of Kshs.53,155,240 in respect of staff payables. However, detailed analyses of pending staff payables were not provided for audit.

As a result, the accuracy and completeness of the reported pending bills balance of Kshs.59,939,650 as at 30 June, 2020 could not be confirmed.

192. Inaccuracies in the Statement of Receipts and Payments

The statement of receipts and payments reflects social security benefits payments amounting to Kshs.14,795,463 for the year under review. However, payment vouchers presented for audit reflected payments totalling Kshs.16,193,841, resulting in an unexplained variance of Kshs.1,398,378 and as a result, the accuracy and completeness of the payments totalling Kshs.14,795,463 could not be confirmed.

Further, the statement includes payments an expenditure amounting to Kshs.36,027,011 in respect of finance costs. The Trial Balance as at 30 June, 2020 indicated that the costs comprised of Kshs.34,989,191 and Kshs.1,037,820 designated as “other depository corporations” and “public enterprises” respectively. However, the two classes expenditure were not in the approved budget and Chart of Accounts. Further, examination of the respective payment records indicated that the items related to public participation expenses and loans provided to members of the County Assembly though an existing car and mortgage facility. Further, payments totalling Kshs.766,422 were incorrectly charged to the finance costs item. Management did not provide a satisfactory explanation the misallocation.

No explanation was provided for the classification of the payments

Other Matter

193. Unresolved Prior - Year Issues

In the report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. Management has made efforts to resolve some of the matters while others remain unresolved, as indicated in the report on follow-up on auditor’s

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recommendations at Note 7 of other disclosures. The matters remain outstanding until they are deliberated upon by the Legislature.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

194. Lack of Ethnic Diversity in Staff Establishment

Review of personnel records revealed that as at 30 June, 2020 the County Assembly had eighty-three (83) employees out of whom seventy-eight (78) or 94% were from the dominant ethnic community in the County. These included four staff recruited during the year under review. This is contrary to Section 65(e) of the County Governments Act, 2012 which provides that, in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the one community in the County in order to promote national unity.

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

195. Failure to Implement E-procurement

Review of the County Assembly's procurement process revealed that only Requests for Quotations and payments for items that were procured through Open Tenders were done through the E-procurement system during the year under review. All other processes were conducted manually. No satisfactory explanation was provided for the failure to adhere to the Executive Orders. This is contrary to Executive Order No.6 of 2015 of 7 May, 2015 required all public entities to fully implement the e-procurement processes within a period two weeks from the date of the Order. Further, Executive Order No.2 of 2018 prescribed that by the 1 of January, 2019, all public procuring entities were to carry out all their procurement activities through the E-procurement module.

196. Irregular Payments to Society of Clerks at the Table

Expenditure records indicated Kshs.500,000 was in the year under review paid for subscription fees to the Society of Clerks at the Table (SOCAT), which caters for affairs of County Assembly staff nation-wide. However, no evidence was provided for audit to indicate that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

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Basis for Conclusion

197. Weak Oversight and Governance System

Review of the operations of the Internal Audit Unit indicated that it was not sufficiently staffed as it had only one officer as the internal auditor. Further, minutes of the deliberations of the Audit Committee were not provided for audit review.

In view of these weaknesses oversight and governance over the County Assembly's administrative operations could not be established.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

198. Irregular Payment of Salaries for Ward Offices Staff

The statement of receipts and payments reflects a balance of Kshs.485,778,565 in respect of compensation of employee which as disclosed in Note 4 to the financial statements constitutes an amount of Kshs.56,000,000,000 for basic wages of temporary employees. Included in the expenditure was Kshs.32,880,330 spent on payment of salaries to one hundred and seventy-nine (179) Ward Office staff employed on a one-year contract for the period between 1 July, 2019 up to 30 June, 2020. However, some of the employees had not signed employment contracts contrary to the provisions of Section 9(2) of the Employment Act, 2007 which requires employers to draw the contracts and have these consented to by employees.

In the circumstances, the regularity of the expenditure totalling Kshs.32,880,330 could not be confirmed.

199. Unsupported Expenditure Rent for Ward Offices

The statement of receipts and payments reflects a balance of Kshs.427,040,925 in respect of use of goods and services. The balance includes an amount of Kshs.16,308,364 under rental of produced assets out of which a balance of Kshs.11,362,974 was paid as rental payments for Ward Offices. However, no record was provided to show how the cost was determined.

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

200. Irregular Expenditure

The statement of receipts and payments reflects a balance of Kshs.427,040,925 in respect of use of goods and services. The balance includes an amount of Kshs.165,630,350 under domestic travel and subsistence. However, review of records indicated that Members of the County Assembly and staff were paid transport allowances amounting Kshs.13,046,000 while attending meetings in various locations in the Country. The payments were made at various rates ranging from Kshs.2,000 to Kshs.13,000. Further, the rates applied were not supported by any authority, or approval from the Salaries and Remuneration Commission. Although the records indicated that Management had in June, 2016 written to the Commission seeking permission to adopt the rates, no record was provided to indicate that the rates were approved.

In the circumstances, the regularity of the expenditure amounting Kshs.13,046,000 could not be confirmed.

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201. Fixed Assets

As disclosed in Annex 4 to the financial statements, a summary of the fixed asset register reflects assets with historical costs of Kshs.573,144,625 as at 30 June, 2020. However, examination of asset records revealed that the County Assembly did not update the fixed assets register during the year under review in spite expenditure records and the statement of receipts and payments indicating that assets worth Kshs.51,674,860 were bought during the year under review. Further, the actual assets register did not indicate the value of assets, date of acquisition and their statuses and conditions as at 30 June, 2020 while some of the assets were not tagged to indicate their users and location, among other details.

In the circumstances, the accuracy and completeness of the fixed assets balance totalling Kshs.573,144,625 as at 30 June, 2020 could not be confirmed. In addition, the assets were at risk of misplacement and loss.

Other Matter

202. Budgetary Control and Performance

The statement of comparison of budget and actual amounts-recurrent and development combined for the year indicates that the approved final budget of the County Assembly for the year under review was Kshs.1,194,723,535 while actual expenditure amounted to Kshs.996,372,927 resulting in under-absorption of Kshs.198,350,608 or 16.6%. Analysis of the expenditure indicates that the County Assembly did not utilize the approved development vote and as a result, none of the development projects planned for the year were executed. Management did not provide a satisfactory explanation for the anomaly.

Failure to implement planned development projects is likely to constrain the capacity of the County Assembly to fulfil its legislative and oversight mandate in the future.

203. Pending Bills

As disclosed in Annexures 1 and 2 to the financial statements, pending bills amounting to Kshs.132,166,379 were outstanding as at 30 June, 2020. The bills constitute Kshs.18,914,108, 74,047,610 and Kshs.39,204,661 in respect of construction of buildings, supply of goods/services and pending Staff Payables respectively. However, Management has not explained why the bills were not settled during the year.

Delay in paying for goods and services slows down economic activity and may discourage the private sector from trading with public entities. In addition, payment of the bills may adversely affect the provisions for the subsequent year to which they have to be charged.

204. Unresolved Prior Year Matters

The audit report for the previous year highlighted several issues raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Control, Risk Management

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and Governance. However, contrary to the reporting format prescribed by the Public Sector Accounting Standards Board, the Management has not annexed to the financial statements a report on progress made in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

205. Non-Compliance with Public Finance Management (County Governments) Regulations, 2015

Operating expenses incurred included Kshs.500,000 paid as subscription fees to Society of Clerks at the Table (SOCATT) forum. However, the County Assembly had not established guidelines or regulations on payment of subscriptions to the forum which is not recognized in law as qualified to receive grants drawn from public funds. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

206. Non-Compliance with the National Cohesion and Integration Act, 2008 - Ethnic Composition

Review of human resource records revealed that during the year under review, the County Assembly had eighty-one (81) permanent employees out of whom sixty-seven (67) or 82.7% of the staff were members of the dominant ethnic Community in the County. This is 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 one ethnic community.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

207. Unreconciled Difference Between the Financial Statements and IFMIS Reports' Balances

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

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

208. Unreconciled Bank Balances

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

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

209. Unsupported of Deposits and Retentions Monies

The statement of financial assets and liabilities reflects accounts payable - deposits and retentions monies balance of Kshs.39,117,572. However, the deposits bank account reflects a balance of Kshs.10,367,469 resulting in an unexplained and unreconciled variance of Kshs.38,080,803.

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

Other Matter

210. Budgetary Control and Performance

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

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

211. Pending Bills

Note 7.9 on Other Disclosures to the financial statements reflects pending accounts payables amount of Kshs.41,173,476 comprising of Kshs.8,464,188 in respect of Kshs.4,432,808 in respect of Kshs.28,276,480 in respect of construction of buildings, construction of civil works and supply of goods and services, respectively. Management has not explained why the amount could not be cleared during the year.

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.

212. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. Management has indicated that the issues have remained unresolved as the Senate has not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

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

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

In the circumstances, Management was in breach of law.

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

Audit review of personnel records for the year ended 30 June, 2020 revealed that, the County Assembly had a total of three hundred and seventy-one (371) employees out of whom three hundred and twelve (312) or approximately 98% were from the dominant community.

This is 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 one ethnic community.

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

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215. Non-Compliance with the Employment Act, 2007 on Salary Deductions

Analysis of the payroll revealed that there were thirty-two (32) employees who earned a net salary of less than a third (1/3) of the basic salary during the year under review. The was contrary to Section 19(3) of the Employment Act, 2007 provides that the total amount of all deductions made by an employer from the wages of his employee at any one time should not exceed two thirds of such wages.

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

216. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

The County Assembly incurred expenditure of Kshs.15,567,032 on purchase of ICT equipment and acquisition of intangible assets. Review of documents on professional opinion provided for audit revealed that only one bid was received. The evaluation Committee recommended that negotiation be carried out which ended with the service provider agreeing to a contract amount of Kshs.19,999,840 from the initial amount Kshs.22,033,040. Audit verification confirmed implementation of the software was about 90% complete. However, the signed agreement indicated the agreed price of Kshs.19,999,840 was a one-time cost and an amount of Kshs.6,480,630 for post implementation support. However, no explanation or justification was provided as to why the Management agreed to an annual maintenance fee of Kshs.5,832,500.

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

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

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

217. Delayed Implementation of Projects

During the year under review, the County Assembly implemented a number of projects across all the sub-counties. A review of the statuses of the project revealed the following unsatisfactory matters:

217.1. Construction of County Assembly Office Annex-Treasury Building

As reported in the previous year, an amount of Kshs.65,570,881 was paid in respect of construction of County Assembly Office Annex Treasury Building. The contract was varied from Kshs.65,000,000 to Kshs.72,854,312.45. However, approval for contract

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variation was not provided for audit review. Audit verification of the project revealed that the building was about 70% complete and the contractor was not on site.

217.2. Stalled Construction of Speaker's Residence

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

217.3. Construction of New County Assembly Offices

As reported in the previous year, the County Assembly entered into a contract for the construction of the County Assembly Offices at a contract sum of Kshs.179,736,282 on 28 June, 2016. Physical verification conducted in December, 2020 revealed that the restaurant works were about 90% and the County Assembly building was about 70% complete. However, the contractor was not on site and there was no work in progress.

217.4. Unutilized Gymnasium Equipment

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

In the circumstances, value for money has not been realised in the implementation of the projects.

218. Recovery of Unremitted Tax Deductions

The statement of receipts and payments and as disclosed in Note 12 to the financial statements reflects other payments amounting to Kshs.118,728,835 being deduction by the Kenya Revenue Authority from the County Assembly's recurrent operational account because of non-remittance of Value Added Tax (VAT), Withholding income tax and Pay As You Earn (PAYE) for the period between July, 2016 to June, 2018.

In the circumstances, value for money has not been realised as public resources was diverted to cater for laxity by management failing to deduct and remit taxes whose recovery affected service delivery at County Assembly.

219. Account Receivables - Outstanding Imprests

The statement of financial assets and liabilities and as disclosed in Note 14 to the financial statements reflects account receivables - outstanding imprests balance of Kshs.26,234,741. Review of documents provided for audit revealed that the amount was held by various officers contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a holder of a temporary imprest shall account or surrender the imprest within seven working days after returning to duty station.

In the circumstances, Management was in breach of law.

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Basis for Conclusion

220. Lack of Risk Management Policy

The County Assembly Management had not put in place risk management policy, strategies and risk register to mitigate against risk 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. It was, therefore, not clear how the Management manages risk exposures.

In the circumstances, the existence of an effective policy to mitigate, and prevent any risk that may crystallize could not be confirmed.

221. Tagging of Fixed Assets

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

In the circumstances, the existence of an elaborate mechanism to safeguard the public assets could not be ascertained.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

222. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following anomalies:

i) The statement of financial assets and liabilities reflects debit balance of Kshs.7,174,842 in respect of transfers to County Revenue Fund (CRF) which was not supported or explained.

   The statement of cash flows reflects an amount of Kshs.22,424,842 as transfer to other Government entities which differs with the amount of Kshs.15,250,000 reflected in the statement of receipts and payments. The resultant variance of Kshs.7,174,842 was not explained or reconciled.

ii) The statement of comparison of budget and actual amounts – recurrent and development combined reflects actual on comparable basis of other receipts amount of Kshs.58,154,438 which differs with the nil balance reflected in the statement of receipts and payments.

iii) The statement of financial assets and liabilities reflects a fund balance brought forward of Kshs.8,732,542 which is at variance with the audited balance of Kshs.7,174,842 as at 30 June, 2019. The resultant variance of Kshs.1,557,700 was not explained or reconciled.

iv) The statement of receipts and payments for the year ended 30 June, 2020 reflects total payments of Kshs.625,111,292 which is at variance with IFMIS Report total payments of Kshs.653,272,452. The resulting variance of Kshs.28,161,160 was not explained or reconciled.

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

223. Unsupported Expenditure - Fuel, Oil and Lubricants

The statement of receipts and payments reflects an expenditure of Kshs.253,702,967 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.8,173,889 on fuel, oil and lubricants. However, Management did not provide for audit review the fuel register and the fuel drawn using detail orders was not recorded in the motor vehicle work tickets while the signed contract agreements for the supply of fuel were not dated.

Under the circumstances, the accuracy and propriety of fuel, oil and lubricants expenditure of Kshs.8,173,889 could not be confirmed.

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224. Unauthorized Expenditures

The statement of receipts and payments reflects an expenditure of Kshs.276,771,847 on compensation of employees which includes an expenditure of Kshs.154,685,174 that was not authorized and approved by the AIE holder and Accounting Officer or any other officer delegated in writing by him. Similarly, included in the expenditure of Kshs.11,453,997 under social security benefits is an expenditure of Kshs.6,294,301 which was also not approved and authorized by the AIE holder and Accounting Officer or any other officer delegated in writing by him.

Under the circumstances, the propriety of the expenditure of Kshs.160,979,475 could not be confirmed.

225. Cash and Cash Equivalents

The statement of financial assets and liabilities reflects a bank balance of Kshs.428,896. However, relevant documents for two (2) bank accounts as at 30 June, 2020 were not provided for audit review. Management did not provide the bank reconciliation statements and, certificate of bank balances for the two accounts. Further, entries in the cash books were not dated while the cash books were not balanced and closed daily as required.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.428,896 as at 30 June, 2020 could not be confirmed.

226. Lack of Assets Register

As disclosed in Annex 4 to the financial statements, the summary of fixed assets register indicates that the County Assembly had fixed assets with a historical cost of Kshs.454,219,013 as at 30 June, 2020. However, the fixed assets register was not provided for audit review making it difficult to ascertain the nature, number, physical location and fair value of the County Assembly's assets.

In the circumstances, the accuracy and completeness of the fixed assets balance of Kshs.454,219,013 as at 30 June, 2020 could not be confirmed.

Other Matter

227. Budgetary Control and Performance

The statement of comparison of budget and actual amounts-recurrent and development combined reflects an approved expenditure budget of Kshs.704,482,408 against actual expenditure of Kshs.625,111,292 resulting in an overall under expenditure of Kshs.79,371,116 or 11%. The under expenditure mainly occurred on development budget where an amount of Kshs.58,154,438 was spent against the budgeted amount of Kshs.105,815,273 resulting to an under expenditure of Kshs.47,660,835 or 45% of the approved budget.

The underfunding and underperformance constrained execution of planned activities and delivery of services to the public.

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228. Pending Bills

As disclosed in Note 3.9 on other disclosures to the financial statements, the County Assembly had pending bills totalling to Kshs.16,428,126 which were due to suppliers of goods and services as at 30 June, 2020. However, an amount of Kshs.9,177,000 was not supported by any documentary evidence. Further, the balance includes an amount due to the Prison Industries Fund balance of Kshs.3,000,000 for furniture not supplied. 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.

229. Unresolved Prior Year Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

230. Domestic Travel and Subsistence Allowances

The statement of receipts and payments reflects an expenditure of Kshs.253,702,967 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.139,434,710 incurred on domestic travel and subsistence allowances. The latter balance includes an amount of Kshs.2,402,400 incurred on carrying out Ward Offices spot check, sensitizing the constituents on Corona Virus, determining the distance in kilometres of the homes of nominated Members of County Assembly and establishing the pieces of land for construction of Ward Offices. The amount was irregularly paid to the members of the whole house, two Board Members and members of staff instead of a House Committee. Further, determination of the distance in kilometres of the homes of nominated Members of County Assembly had already been done by another team which had incorporated the County Works Officer.

In the circumstance, value for money on the expenditure of Kshs.2,402,400 could not be confirmed.

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

A review of staff establishment records revealed that, the County Assembly had ninety-six (96) employees out of which eighty-six (86) or 90% came from one ethnic community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one third of its staff from the same ethnic community.

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

232. Non-Compliance with the Law on Fiscal Responsibility – Wage Bill

During the year under review, the County Assembly spent a total of Kshs.288,225,844 on compensation of employees and benefits . This represents 46% of the total receipts of Kshs.623,982,488 on compensation of employees and benefits. The compensation of employees cost exceeded the set threshold of 35% stipulated under Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015.

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

233. Non-Compliance with the Employment Act, 2007

Review of the payroll revealed that some members of staff earned net salaries less than a third of their basic pay against the requirement of Section19(3) of Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay.

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

234. Irregular Payment of Transport Allowances

In addition, the balance includes an amount of Kshs.7,241,298 relating to transport allowances paid to Members of County Assembly. However, the transport allowances were not paid through the payroll and in accordance with the approved rates as provided for in the Salaries and Remuneration Commission Kenya Gazette Vol.CXIX-No.89 of 7 July, 2017 which requires payment of transport allowance for Members of the County Assembly to be clustered into four zones and Members of the County Assembly to be paid a fixed monthly transport allowance through the payroll. Further, the transport allowances paid were not taxed.

235. Irregular Payment of Sitting Allowances

The balance also includes sitting allowances balance of Kshs.7,260,500 paid to Members of County Assembly and County Assembly Service Board staff outside the payroll without any justification from the accounting officer. Further, Pay As You Earn (PAYE) of Kshs.5,634,150 deducted from the sitting allowances was not remitted to the Kenya Revenue Authority contrary to Income Tax Act, Cap 470.

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

236. Irregular Employment of Ward Staff

Review of personnel records revealed that each Ward Office had six employees contrary to the requirement of the Commission on Revenue Allocation Circular Ref No: CRA/CSO/CMG/9/VOL.V (43) of 3 August, 2020 which provides for employment of three (3) employees per Ward Office. Further, the ward employees were each being paid salaries below the approved minimum wage of Kshs.13,572.90 per month contrary to Human Resource Manual.

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

237. Irregular Expenditure - Hotels and Conference Facilities

The statement of receipts and payments reflects an expenditure of Kshs.253,702,967 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.12,710,770 in respect of training expenses. The latter balance includes an expenditure of Kshs.7,231,550 incurred on hiring hotels and conference facilities. However, the hotels and conference facilities were directly procured while procured services were not included in the procurement plan for the year under review. The County Assembly did not have an annual training plan, training needs assessment was not done and no reports were produced after the trainings were completed.

Further, the procurement of the services and facilities was done outside IFMIS against the requirement of Treasury Circular No. 24/2015 dated 21 December, 2015 which provided guidelines on the use of E-Procurement in the County Governments.

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

238. Acquisition of Assets

i) Delayed Construction of County Assembly Restaurant and Car Park

As previously reported, the County Assembly entered into a contract with a firm for the construction of a restaurant and a car park on 3 January, 2014 at a contract sum of Kshs.36,685,718. An expenditure of Kshs.15,765,679 was incurred on the project in the financial year 2014/2015 but payment vouchers were not submitted for audit verification. During the year under review, project records such as payment vouchers, certificates of completion issued, status report of the project were still not provided for our audit verification. Further, a physical verification of the project revealed that it has stalled and there was no budgetary provision in respect of the project in the 2019/2020 financial year.

In the circumstances, the objectives of the project have not been achieved and the public may not have obtained value for money spent on the project as planned.

ii) Delayed Construction of Buildings

The statement of receipts and payments reflects an expenditure of Kshs.67,920,438 under acquisition of assets which, as disclosed in Note 10 to the financial statements, includes an amount of Kshs.58,154,438 relating to construction of buildings. The latter balance includes an amount of Kshs.56,154,439 paid during the year for construction of a modern assembly complex. The contract was awarded on 6 January, 2015 at a price of Kshs.358,392,421.

The contractor has been paid a total of Kshs.338,151,067 or 94% of the contract sum against 76% of work done as at 30 June, 2020. The amount paid include prime cost of Kshs.34,000,000 which has not been accounted for. The completion/interim certificates were issued upon valuation by the quantity surveyor contrary to Section 48(4) of the Public Procurement and Assets Disposal Act, 2015 which requires the

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Inspection and Acceptance Committee to ensure that the correct quantity of the goods is received, the goods, works or services meet the technical standards defined in the contract, the goods, works or services have been delivered or completed on time, or that any delay has been noted, all required manuals or documentation have been received and issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

However, the project is behind schedule as it was supposed to be completed by February, 2018. Management has however explained that the execution of the contract was suspended by the Governor to facilitate a special audit of all contracts vide a letter dated 19 September, 2017. The basis of the termination of the contract and the termination letter by the Governor were not provided for audit verification.

iii) Purchase of Motor Vehicles and Other Transport Equipment

Included in the acquisition of assets expenditure of Kshs.67,920,438 is an amount of Kshs.8,356,000 relating to purchase of motor vehicles and other transport equipment which was paid for purchase of a Toyota Fortuner. However, review of records provided revealed that the vehicle was directly procured although the prevailing conditions did not justify the procurement method and the logbook for the vehicle was also not provided for audit verification.

Although, Management explained that the supplier was identified from the contracted suppliers of motor vehicles for the Ministry of Transport, Infrastructure, Public Works, Housing and Urban Development, there was no documentary evidence to confirm that the County Assembly requested to use the contracted suppliers of the Ministry and the approval from the Tender Committee as required under Section 56 of the Public Procurement and Asset Disposal Act, 2015.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

239. Information Communication Technology

Review of the County Assembly Information and Communication Technology (ICT) System revealed that the Assembly did not have an approved IT Policy, Data Recovery Plan and IT Security Policy which are vital in effective and efficient management of the entity's IT resources.

Further, the County Assembly did not have an IT Steering Committee which is important in performing the oversight function and formulation of policies to ensure that IT Unit functions are properly in place to assist in the achievement of organizational objectives in an efficient, economic and effective manner. In addition, the County Assembly did not have periodic IT reports which are supposed to assess the status of implementation of IT systems and suggest corrective measures.

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240. Effectiveness of the Internal Audit Function

As previously reported, the County Assembly has established an Internal Audit Unit to oversee the governance mechanism and promote transparency and accountability of management of the County Assembly's resources. The unit has, however, only two officers who reports to Management instead of an Audit Committee contrary to Regulation 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Head of Internal Audit Unit in a County Government to enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

In the circumstances, due to the shortage of capacity in Internal Audit Unit, weaknesses in internal control systems may pass unnoticed exposing the County Assembly to risk of loss of assets and other resources.

In the circumstances, the existence of an effective oversight of the internal audit could not be ascertained.

241. Risk Management Processes

As reported in the previous year, a review of risk management processes revealed that the Management does not conduct risk assessment of the various operational areas to make recommendations of the measures to be instituted to check on the risks. The lack of risk assessment and regular reviews on fraud risk control processes makes it impossible for the Management to establish if the operations are not prone to risks.

In the absence of a risk management process of procedures, the effectiveness of the mitigation of risk and evaluation could not be confirmed.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

242. Discrepancies in the Management Report and Financial Statements

Review of the financial statements presented for audit has revealed that the statements excluded a number of statements and had inconsistent pages and omissions.

In view of these matters, the cited disclosures in the Management report and balances in the financial statements are not fairly stated and do not conform to the format prescribed by the Public Sector Accounting Standards Board (PSASB).

243. Inaccuracies in the Financial Statements

Review of the Financial Statements revealed that the IFMIS ledger reflected Net assets balance of Kshs.93 while the IFMIS reflected an amount of Kshs.139,520,573. Similarly, the financial statement reflected a balance of Kshs.93 while the IFMIS reflected Kshs.35,236,921 leading to a discrepancy of Kshs.139,496,424 and Kshs.84,926,813 respectively.

243.1. Inaccuracies in the Financial Statements

The net financial assets and net financial position balances reflected in the statement of financial assets and liabilities and Integrated Financial Management Information System (IFMIS) ledger as at 30 June, 2020 do not tally. The financial statements ledger reflects net financial assets of Kshs.93 while the IFMIS reflected an amount of Kshs.139,526,573. Similarly, the financial statements reflected a balance of Kshs.93 while the IFMIS reflected an amount of Kshs.85,236,921 resulting to a discrepancy of Kshs.139,496,424 and Kshs.84,926,813 respectively.

243.2. Opening Fund Balance

The statement of financial assets and liabilities reflects nil opening fund balance whereas the closing balance for the prior year was Kshs.16,680,140. The resulting variance of Kshs.16,680,140 between the two sets of records was not explained.

243.3. Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.93 as at 30 June, 2020. However, the balance was not supported with a certificate of bank balance.

In addition, the statement of cash flows reflects a nil cash and cash equivalents balance at the beginning of the year even though the prior year's closing balance reflected in the audited financial statements amounted to Kshs.15,518,826.

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Further, the bank balance for the County Assembly's salary account as at 30 June, 2020 totalling to Kshs.1,234,636 has been omitted from the financial statements.

243.4. Legal Fees

Further, expenditure records indicated that during the year under review, the County Assembly incurred legal costs totalling Kshs.7,418,200 reflected in records as other operating expenses under the use of goods and services expenditure item. However, the costs have not been disclosed in the Notes to the financial statements.

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

244. Compensation of Employees

244.1. Discrepancies Between the financial statements and Notes

The statement of receipts and payments reflects compensation of employees' expenditure totalling to Kshs.283,367,873 whereas the disclosure in Note 4 to the financial statements reflects a balance of Kshs.283,057,857 resulting to an unexplained variance of Kshs.310,016. Further, records provided for audit indicated that the gross payroll expenditure and Member of Count Assembly (MCA) mileage claims payments in the year under review amounted to Kshs.234,756,829 and Kshs.40,914,480 respectively or Kshs.275,671,309 in aggregate.

The resulting variance amounting to Kshs.7,696,564 between the compensation of employee's balance totalling to Kshs.283,367,873 reflected in the financial statements and the underlying records was not explained.

244.2. Social Security Benefits

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects social security payments balance of Kshs.17,270,675. However, the payroll records reflected payments amounting to Kshs.10,028,459 comprising of Employer Contributions to Local Authorities Pension Trust (LAPTRUST) and Local Authorities Pension Fund (LAPFUND) of Kshs.9,898,511 and Kshs.129,948 respectively resulting to an unexplained variance of Kshs.7,242,216.

In view of these issues, the accuracy and completeness of the reported, compensation of employees, social security benefits, opening fund balance, and cash and cash equivalents balances reflected in the financial statements could not be confirmed.

Other Matter

245. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects budgeted receipts and actual on comparable basis totalling to Kshs.555,297,034 and Kshs.490,297,034 respectively resulting to a revenue shortfall of Kshs.65,000,000 or 11.70% of the budget.

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Failure to utilize all the budgeted funds may have constrained the implementation of the planned development projects and delivery of services to the residents of Samburu County.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

Basis for Conclusion

246. Lack of Risk Management Policy

There were no records indicating that the County Assembly had an established risk management policy as required by Section 158(1)(a) and (b) of the Public Finance Management Act (County Government) Regulations, 2015.

In the absence of a risk management policy, the Management lacks objective means to identify, measure and mitigate risks with potential to disrupt the operations.

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REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

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

Other Matter

248. Budgetary Control and Performance

The budget of the County Assembly for the year under review totalled to Kshs.717,139,110 and expenditure Kshs.594,229,903 resulting to under-expenditure of Kshs.122,909,207 equivalent to 17% of the budget.

The under-expenditure mainly occurred in respect to acquisition of assets on which Kshs.21,078,943 was spent against a budget of Kshs.93,600,000, resulting to under-expenditure of Kshs.72,521,057 or 77% of the budget.

Failure to absorb the significantly large portion of the item's budget meant that most of the assets needed for the County Assembly's use were not acquired and as a result, its legislative and oversight capabilities may have been inhibited.

249. Previous Years' Issues

The report on progress on follow-up of auditor's recommendations at Note 14 indicates that issues highlighted in the report for the previous year have been resolved, or are nearing resolution by Management. Confirmation on the actual status of the issues shall be obtained after they are deliberated upon by the Legislature.

250. Pending Bills

Annexures I and II to the financial statements - other disclosures - indicate that as at 30 June, 2020, the County Assembly owed pending accounts payable totalling Kshs.19,484,365 and other pending payables totalling Kshs.36,232,631 or Kshs.55,716,996 in aggregate.

Failure to pay suppliers of goods and services in time slows down economic activity and may discourage them from trading with public entities.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

251. Failure to Observe One-Third Salary Deduction Rule

Analysis of the payroll for permanent employees indicated that, in each month of the year under review, net monthly salaries for an average of ten (10) officers were less

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than one third of their respective basic salaries due to deductions for loans and other non-statutory liabilities made on their gross pay. The excessive deductions contravened Section 19(3) of the Employment Act, 2007 which prohibits employers from deducting more than two thirds of employee wages.

In the circumstances, Management was in breach the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

252. Weak Internal Audit Function

As similarly reported in the previous year, the County Assembly operated without an Audit Committee, and an approved Audit Charter detailing the purpose, scope and responsibilities of the Internal Audit Unit. Further, the Unit was functionally and administratively placed under the Clerk of the County Assembly who is the Accounting Officer contrary to Regulation 155(1) which provides that the Internal Auditor shall enjoy operational independence by reporting functionally to the Audit Committee.

As a result, the operational independence of the Unit and its effectiveness in monitoring internal control and governance in the County Assembly could not be confirmed.

253. Inadequate Information Technology Management Systems

As previously reported, review of risk management in the County Assembly indicated that Management had not established an elaborate disaster recovery and business continuity plan for the County Assembly's Information and Communication Technology (ICT) function.

Further, there was no Information Communication Technology Committee to provide guidance and direction on investment and use of ICT resources, there was no policy on back-up of data and documented user-management standards and procedures that defined user-access rights and other important requirements.

In the circumstances, the County Assembly may not attain secure and effective use of ICT.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

254. Unsupported Cash and Cash Equivalents

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

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

255. Unsupported Payment of Rent for Ward Offices

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects balance of Kshs.343,587,491 in respect of use of goods and services. Included in this amount is Kshs.6,340,000 incurred on rentals of produced assets. Review of records provided revealed that there was no lease agreement or contract between the County Assembly and the landlords while the invoices in support of the payment of rent were not provided for audit review.

Further, the rent for all the wards offices was pegged at Kshs.15,000 per month. However, it was not possible to confirm how the rent charges were determined since ward offices are not located in the same area and the facilities are not similar in size and amenities.

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

256. Unsupported Payment of Wages Toward Employees

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

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

257. Unsupported Foreign Travel

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

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to staff members while participating in the East Africa Local Authorities Sports and Cultural Association (EALASCA) in Kampala, Uganda. However, Management did not provide the list of participants from County Assemblies Sports Association (CASA) for the Kenyan team showing the various games in which the Kenyan participants were involved.

Further, no approval from the State Department of Devolution as required under circular Ref: OP/CAB.1/7A dated 26 January, 2015 and did not attach bus hire invoices or tickets to account for an amount of Kshs.10,000 that was disbursed as transportation costs. No certificates of participation to confirm their participation in the games was also provided for review was attached.

In the circumstances, the regularity of the expenditure amounting to Kshs.4,050,749 incurred on the East Africa Local Authorities Sports and Cultural Association (EALASCA), games could not be confirmed.

Other Matter

258. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.733,014,946 and Kshs.683,014,946 respectively resulting to an under-expenditure of Kshs.50,000,000 or 6.8% of the budget. The under-expenditure was as a result of development budget that was not spent. The non-utilization of the development budget affected the planned activities and may have impacted negatively on service delivery to the residents.

259. Unresolved Prior Year Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

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

The statement of receipts and payments and as disclosed also in Note 3 to the financial statements reflects expenditure of Kshs.343,587,491 in respect of use of goods and services. Included in this amount are other operating expenses amounting to Kshs.16,449,244. The amount includes payments for annual subscription to Society of Clerks Table of Kshs.500,000 and County Assembly Forum of Kshs.2,000,000. However, there was no legislation or policy in place to authorize such subscriptions and to justify the payments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the

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structures and institution 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.

261. Non-compliance with Public Finance Management Act, 2012 - Fiscal Discipline

The County Assembly spent Kshs.326,292,687 on compensation of employees and Kshs.12,659,795 on social security benefits. The total expenditure of Kshs.338,942,482 on the two items represents 50% of the total receipts of Kshs.682,950,255. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Executive Committee Member with the approval of the County Assembly to set a limit on the County Government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Public Finance Management Act, 2012 which should not exceed thirty-five percent of the County Government's total revenue.

In the circumstances, Management was in breach of law.

262. Failure to Observe One Third Rule on Staff Establishment

Review of human resource records revealed that the County Assembly had a staff establishment of ninety-nine (99) employees out of whom eighty-nine percent (89%) were from the dominant community. This was contrary to the provisions of Section irregular Act, 2008.

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

263. Members of County Assembly and Employees Earning Less Than a Third of their Basic Pay

Review of the payroll for the months of December, 2019 to March, 2020 revealed that a number of Members of County Assembly and employees of the assembly were receiving salaries less than a third of their basic pay as tabulated below:

Salary Month	Dec 2019	Jan 2020	Feb 2020	Mar 2020
Members of the County Assembly whose net salary was less than one third of their basic salary.	22	45	40	28
County Assembly employees whose net salary was less than one third of their basic salary.	2	8	9	12
Total	24	53	49	40

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

In the circumstances, Management was in breach of law.

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Basis for Conclusion

264. Lack of Information Communication Technology Policies

As reported in the previous year, review of the Information and Communication Technology (ICT) of the County Assembly revealed that the Assembly did not have an IT Policy, Data Recovery Plan (DRP) and IT security policy in the year 2019/2020. Further, the County Assembly did not have an IT steering committee which is critical in performing the oversight function and formulation of policies.

In the circumstances, the effectiveness of measures to Assembly's IT policies could not be confirmed.

265. Lack of Audit Committee and Weak Internal Audit Unit

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

In the circumstances, the existence of a vibrant system to safeguard wastage and loss of public resources could not be confirmed.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

266. Unexplained Differences Between Financial Statements and Ledger Balances

Several account balances reflected in the financial statements differ with identical account balances reflected in the Integrated Financial Management Information System ledger as at 30 June, 2020. The balances relate to receipts, payments, cash and cash equivalents, account payables-deposits and the fund balance.

In view of the discrepancies, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

267. Unconfirmed Balances - Foreign and Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services expenditure totalling to Kshs.229,475,916 which, as disclosed in Note 5 to the financial statements includes a balance of Kshs.21,105,229 spent on foreign travel and subsistence which in turn includes payments totalling to Kshs.9,048,751 made to various officers of the County Assembly for use in foreign travel and subsistence. The use of goods and services balance also includes an amount of Kshs.2,957,400 spent on domestic travel and subsistence. In both instances, the officers were issued with cash which further expensed without any supporting document instead of issuing imprests to account upon performance of the service.

Similarly, expenditure records indicated that payments totalling to Kshs.2,767,000 were made to the Members of the County Assembly to enable them write reports in Eldoret and Kisumu.

In the circumstances, the propriety of the expenditure totalling to Kshs.21,006,151 could not be confirmed.

268. Reconciliation of Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.1,158,659 which includes a bank balance of Kshs.1 for a bank account operated with a local commercial bank.

However, the bank certificate and the bank reconciliation statement for the account as at 30 June, 2020 reflected a bank balance of Kshs.584,666 resulting in an unexplained variance of Kshs.584,665 between the two sets of records.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.1,158,659 as at 30 June, 2020 could not be confirmed.

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269. Exclusion of Assets and Liabilities from the Defunct Local Authorities

Annex 4 to the financial statements reflects a summary register of fixed assets that in turn reflects assets with a historical value of Kshs.185,125,859 as at 30 June, 2020. However, the balance does not include the values of fixed assets taken over from defunct local authorities in the County. The assets, which included land, buildings, motor vehicles, office equipment, furniture and fittings were in use by the County Assembly in the year under review.

In the circumstances, the accuracy and completeness of the summary of fixed assets register balance of Kshs.185,125,859 as at 30 June, 2020 could not be confirmed.

Other Matter

270. Budgetary Control and Performance

The expenditure budget for the County Assembly in the year under review totalled to Kshs.537,872,797 comprising of development vote of Kshs.1,028,790 and recurrent vote of Kshs.536,844,007. Overall, the budget absorption rate was good as only Kshs.106,636 was not utilized at the end of the financial year as hereunder:

Item	Budgeted Amount Kshs.	Actual Amount Kshs.	Under-Absorption Kshs.
Development	1,028,790	1,028,790	0
Recurrent	536,844,007	536,737,371	106,636
Total	537,872,797	537,766,160	106,636

271. Progress on Follow-up of Prior Year Audit Issues

Note 7 of Other Disclosures indicates that issues raised in the audit reports for the previous year had not been resolved as at 30 June, 2020. No explanation has been provided for the failure to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

272. Lack of Ethnic Diversity in Staff Establishment

Human resource records examined indicated that during the year under review, the County Assembly had seventy (70) permanent employees out of whom sixty-eight (68) or 97% were from the dominant community in the County. The establishment does not conform to Section 7(1) of the National Cohesion and Integration Act, 2008 which requires all public establishments to seek to represent the diversity of the people of Kenya in the employment of staff.

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

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273. Irregular Expenditure on Meetings and Retreats

Expenditure records indicated that an amount of Kshs.4,448,500 was issued to Members of the County Assembly and other staff for use in retreats and other consultative meetings held in various towns. Similarly, an amount of Kshs.2,767,000 was paid to the Members of County Assembly as per diems to enable them write reports and conduct meetings in Eldoret and Kisumu which could have been conducted within the precinct of the County Assembly.

The meetings and retreats were held contrary to the National Treasury Circular No.20/2015 of 4 November, 2015 which prohibited including entity businesses banned out of station events to discuss strategy outside the precinct for assignments that would ordinarily be done in local offices.

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

274. Excessive Spending on Personnel Emoluments

The statement of receipts and payments to reflects payments for compensation of employees totalling to Kshs.283,385,576 and social security benefits totalling to Kshs.13,045,098. The expenditure on the two items totalled to Kshs.296,430,674 equivalent to 55% of the total County Assembly revenue totalling to Kshs.537,766,161 which exceeded the ratio of 35% stipulated in Regulation 25(1) 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

275. Weaknesses in the Internal Controls

Sampling of payments processed through the Integrated Financial Management Information System (IFMIS) in the year under review detected forty-two(42) missing payment voucher numbers. No satisfactory explanation was provided by Management for the anomaly leading to risk of loss of public funds or misstatement of expenditure balances.

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

276. Lack of a Risk Management Policy

Audit review of the control environment in the year under review indicated that the County Assembly did not have a risk management policy and business recovery or continuity plan. As a result, Management did not have means to objectively identify, measure and mitigate risks to the operations of the County Assembly. Further, the operations of the County Assembly could be severely disrupted should adverse events.

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In the circumstances, the existence of a risk management mechanism could not be established.

277. Ineffective Internal Audit Function

During the year, the Internal Audit Unit did not prepare a risk-based audit plan. The Unit did not have an Internal Audit Charter detailing the scope, responsibilities and purpose of the internal audit function. However, the Unit was understaffed as it had only two staff members against the eight (8) as provided in the approved establishment.

Further, the Audit Committee had only one member and therefore, it did not hold any meeting. In the circumstances, audit findings were not discussed by the Committee and no recommendations were issued to correct the shortcomings highlighted in audit reports.

In the circumstances, weak Internal Audit function and Audit Committee, oversight and governance in management of public resources in the County Assembly was weak.

278. Ineffective Information Technology Steering Committee

Review of the operational systems further indicated that although Management had established an Information Technology (IT) Steering Committee, there was no evidence that the Committee met during the year under review.

In the circumstances, the ICT policies on use of IT may not be properly established or effective.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

279. Inaccuracies in the in the Financial Statements

The balances reflected in the financial statements for the year ended 30 June, 2020 differs with the IFMIS report as indicated below:

Item	Financial Statements Balances (Kshs.)	IFMIS Balances (Kshs.)	Difference (Kshs.)
Transfers from the County Treasury/Exchequer Releases	674,665,357	-	674,665,357
Compensation of Employees	371,877,137	383,555,863	(11,678,726)
Use of Goods and Services	234,156,592	225,542,409	8,614,183
Social Security Benefits	11,728,102	20,031,521	(8,303,419)
Acquisition of Assets	92,386,431	54,409,147	37,977,284
Finance Costs	14,430	-	14,430
Other Payments	-	48,212,734	(48,212,734)
Bank Balances	38,564,169	(59,499,229)	98,063,398
Cash Balances	-	2,652,073,136	(2,652,073,136)
Accounts Receivable	-	5,400,000	(5,400,000)
Accounts Payables - Deposits	26,102,745	3,909,351,713	(3,883,248,968)
Fund Balance b/fwd	47,958,759	(579,626,131)	627,584,890
Surplus/Deficit for the Year	(35,497,335)	(731,751,674)	696,254,339

In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2020 could not be confirmed.

280. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects expenditure amounting to Kshs.234,156,592 under use of goods and services. Examination of records revealed the following unsatisfactory matters:

280.1. Domestic Travel and Subsistence Allowance

The balance includes domestic travel and subsistence allowance totalling to Kshs.53,310,942. However, Management made two payments amounting to Kshs.2,041,200 to twenty-four (24) Members of the County Assembly (MCA) as daily subsistence allowance for three days during a retreat on adoption of budget estimates for the financial year 2019/2020. However, the Members were paid directly without being issued with imprest warrants.

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Further, payments amounting to Kshs.3,937,500 were made to twenty-five (25) Members of the County Assembly and four (4) staff as daily subsistence allowance for 10 days while attending a workshop at a hotel in Kisumu from 19 to 29 January, 2020. However, the expenditure was directly charged without issuance of imprests to individual attendees and the nature of the activity was not clear.

280.2. Foreign Travel and Subsistence Allowance

Further, the balance includes foreign travel and subsistence allowance balance of Kshs.9,943,542 which constitutes payments of Kshs.8,541,021 made to Members of County Assembly and staff while on a training trip to Kampala in Uganda. However, the payment was not supported by invitations, training programme(s), clearance letter by the Ministry of Foreign Affairs, original air tickets, boarding passes and certificates if any. The payment voucher was also not supported by signed schedule by the payees acknowledging receipt of the money. No imprests were issued to the individual Members and staff, instead the payments were made directly to various banks for disbursement to the account holders.

Similarly, the balance includes a balance of Kshs.1,768,500 made to an officer while travelling to Singapore for training. The payment was not supported with boarding passes, original air tickets, Visa and stamped passport. No imprest was issued to the individual officer but the money was directly paid to a bank for disbursement to the account holders.

280.3. Fuel, Oil and Lubricants

In addition, the expenditure of Kshs.234,156,592 under use of goods and services includes fuel, oil and lubricants balance of Kshs.8,149,319. However, an analysis of the fuel consumption indicates that two vehicles consumed of fuel valued at Kshs.757,397 over a period of 6 months between July and December, 2019 but the work tickets did not indicate that any fuel was drawn. In some instances, the vehicles were fuelled without detail orders. The detail orders did not show the litres to be drawn into the vehicles and the fuel statement from the petrol stations included vehicle repair and maintenance costs. No fuel register was provided for audit review.

280.4. Insurance Costs

The balance also constitutes an amount of Kshs.20,566,288 in respect of insurance costs which includes payments of Kshs.1,318,805 made to an insurance company for provision of motor vehicle insurance. However, the list of vehicles covered included one of the motor vehicles which had been grounded for an undisclosed period and thus had not been in use.

In the circumstances, the propriety and accuracy of the expenditure amounting to Kshs.234,156,592 could not be ascertained.

281. Irregular Payment for an Authorised Allowance

During the year under review, examination of expenditure records revealed that the County Assembly paid an amount of Kshs.8,453,398 to Nandi County Assembly Savings and Credit Co-operative Society Ltd, which was in turn paid to several

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Members of the County Assembly (MCAs) as temporary committee allowances. The amount was paid to Nandi County Assembly Savings and Credit Co-operative Society (SACCO) to which the MCAs make monthly share contributions and owed loans. Apparently, the SACCO Management had allowed the MCAs to take excessive loans from the Sacco which had resulted in salary deductions in excess of the two-thirds of salary limit.

In the circumstances, the is irregular and unlawful use of public funds to pay off loans advanced to the MCAs and their share contributions under the guise of paying them unauthorized temporary committee allowance.

282. Unsupported Cash and Cash Equivalents

As disclosed in Note 13A to the financial statements, the statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.38,564,169 as at 30 June, 2020 which comprise of monies held in five (5) bank accounts operated and maintained by the County Assembly. However, certificates of bank balances for the three bank accounts with a cumulative balance of Kshs.35,806,864.50 or approximately 93% and maintained at the Central Bank of Kenya were not provided for audit verification. Further, IFMIS bank reconciliation statements for the five bank accounts were not attached as annexures to the financial statements.

In the circumstances, the accuracy, existence and completeness of the cash and cash equivalents balance of Kshs.38,564,169 as at 30 June, 2020 could not be confirmed.

283. Unsupported Expenditure - Acquisition of Assets

As disclosed in Note 10 to the financial statements, the statement of receipts and payments reflects an expenditure of Kshs.92,386,431 under acquisition of assets. Examination of records revealed that the balance constitutes payment amounting to Kshs.88,177,449 in respect of construction of buildings paid to a contractor for the construction of a modern County Assembly Chambers, offices, and auxiliary facilities. The contract was awarded at a sum of Kshs.469,469,934 through a contract agreement which was entered on 30 December, 2016. During the year under review, an amount of Kshs.88,171,449 was paid towards the project out of which a balance of Kshs.36,291,213 was not supported by requisite certificates and details of the certified works.

In the circumstances, the propriety of the construction of buildings expenditure of Kshs.88,177,449 could not be confirmed.

284. Unsupported Withholding Tax Deductions and Payments

During the year under review, the County Assembly paid an amount of Kshs.25,777,491 to Kenya Revenue Authority in respect of 6% and 3% withholding tax for various suppliers and contractors who provided goods and services to the County Assembly. However, no documentary evidence was provided for audit verification to show, the cost of the goods or services for which the withholding tax was deducted and how the tax was arrived at.

In the circumstances, the regularity and accuracy of the withholding tax of Kshs.25,777,491 could not be confirmed.

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Emphasis of Matter

285. Undisclosed Clearance of Pending Bills Brought Forward

As disclosed in Note 8.10 – Other Disclosures, the County Assembly recorded a pending accounts payables of Kshs.32,032,147 as at 30 June, 2020 and the brought forward amount from 2018/2019 financial year is shown as nil balance and no amounts is indicated as paid during the year. However, review of the audited financial statement for the previous year 2018/2019 revealed that the County Assembly had an amount of Kshs.267,393,549 which had been carried forward to the current financial year 2019/2020.

My opinion is not modified based on the effects of the above matter.

Other Matter

286. 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 had not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

287. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015 on Fiscal Responsibility - Wage Bill

The statements of receipts and payments reflects an expenditure of Kshs.371,877,137 on compensation of employees representing 55% of the total receipts of Kshs.674,665,357. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Executive`s expenditure on wages and benefits to not more than 35% of the total revenue for the year.

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

288. Non-Compliance with the Employment Act, 2007

Audit review of the County Assembly's payrolls for the year ended 30 June, 2020 revealed that some employees of the County Assembly were receiving net salaries which were less than a third of their respective basic salaries contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 and Section 19(3) of the Employment Act, 2007 which requires that deductions made by

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an employer from the wages of an employee at any one time shall not exceed two thirds of such wages.

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

289. Non-Compliance with the National Cohesion and Integration Act, 2008 on Ethnic Composition

During the year under review, the total number of employees of County Assembly was eighty-three (83) employees excluding Members of County Assembly, all or 100% of whom are from the same ethnic community in the county. This is 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, the County Assembly is in breach of the law.

290. Non-Adherence to Regulations on Issuance of Temporary Imprests

Disclosed in Note 5 to the financial statements under use of goods and services are domestic travel subsistence, foreign travel and subsistence, and training expenditure amounting to Kshs.53,310,942, Kshs.9,943,542 and Kshs.19,660,700, respectively.

Examination of expenditure records indicated that Management issued cash to several officers of the County Assembly assigned to carry out various duties and activities away from their duty stations instead of issuing temporary imprests. The cash advances, were expensed directly without sufficient supporting documents contrary to regulation 91 of Public Finance Management (County Governments) Regulations, 2015 which requires such expenditures to be funded through temporary imprests.

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

291. Irregular Payment to County Assembly Forum

During the year under review, the County Assembly paid an amount of Kshs.81,645,230 under other operating expenses which includes an amount of Kshs.5,900,000 paid to the County Assemblies' Forum, CAF in respect of membership fees, dues and subscriptions paid to the County Assembly Forum. However, Management did not provide supporting evidence including legal backing for the Forum for audit review. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

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Basis for Conclusion

292. Lack of ICT Steering Committee and Other Internal Controls

Review of the Information and Communication Technology (ICT) system deployed by the County Assembly indicated that Management had not formulated an ICT Policy and framework to promote and guide effective and efficient use of the County Assembly's ICT resources. Further, the County Assembly did not have an ICT Steering Committee to provide oversight on the activities of the ICT Department as well as leadership in formulating relevant policies.

In the circumstances, it has not been possible to confirm the existence of an efficient and effective system to offer guidance and oversight on the ICT infrastructure and operation in the County.

293. Weakness in Internal Controls and Risk Management Strategy

During the year under review, examination of records revealed that there was no approved budget for internal audit for to enhance organizational independence. No documentary evidence was provided to confirm that the internal audit workplan for 2019/2020 was risk based. There were no internal audit reviews and no audit committee assurance on the integrity of the County Assembly's financial information, its system of governance, risk and internal controls, as well as legal and ethical conduct by Management and the employees.

Further, there was no documented independent review of the financial statements to confirm the integrity and transparency of the financial reporting process.

In addition, and as previously reported, the County Assembly did not have a risk management policy and disaster recovery plan. As a result, the operational and other risks that the County Assembly may face are unlikely to be managed in an effective way.

In the circumstances, the existence of an effective internal control system cannot be ascertained.

294. Committees Sitting Allowances

An inspection of attendance registers and minutes of meetings of committees revealed cases where some committees had no attendance registers to show members who attended the committee meetings. In some cases, minutes of the meetings provided in support of the meetings were not signed.

In view of these omissions, internal control and governance in the County Assembly is not effective.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

295. Inaccurate Statement of Cash Flows

The statement of cash flows reflects cash and cash equivalents balance of Kshs.3,286,831 which, differs with the balance of Kshs.3,244,031 reflected in the statement of assets and liabilities in respect to the account. The difference amounting to Kshs.42,800 between the two sets of records has not been explained. Further, the statement of cash flows excludes adjustments for changes in accounts receivables totalling to Kshs.13,036,700 and Kshs.61,410 for the year 2018/2019 and 2019/2020 financial years respectively.

From the foregoing, the accuracy and completeness of the statement of cash flows for the year ended 30 June, 2020 could not be confirmed.

296. Omitted Fund Balance

The statement of assets and liabilities reflects nil amount of fund balance brought forward from 2018/2019 financial year. However, the audited financial statements for the year reflected a closing fund balance of Kshs.242,201. The difference between the two statements was not be explained.

In the circumstances, the accuracy and completeness of the statement of assets and liabilities as at 30 June, 2020 could not be confirmed.

297. Variance Between Financial Statements and IFMIS Balances

Several account balances reflected in the financial statements differ from those reflected in respect to identical accounts in the Integrated Financial Management Information Systems (IFMIS) Trial Balance. No explanation has been provided for the differences.

As a result, the accuracy and completeness of the financial statements could not be confirmed.

298. Misclassification of Expenses

The statement of receipts and payments reflects expenditure on use of goods and services and acquisition of assets totalling to Kshs.267,991,879 and Kshs.50,475,844 respectively. However, several expenditure items totalling to Kshs.4,638,745 do not relate to use of goods and services or acquisition of assets and have, therefore, been misclassified in the financial statements.

In the circumstance, the use of goods and services and acquisition of assets balances totalling Kshs.267,991,879 and Kshs.50,475,844 respectively do not reflect the true and fair view of the expenditures incurred on the two items during the year under review.

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299. Unsupported Allowances and Mileage Claims

The statement of receipts and payments reflects compensation of employees payments totalling to Kshs.359,535,346, as further disclosed in Note 2 to the financial statements. Included in the balance are allowances and mileage claims for the months of March, April, May and June, 2020 totalling to Kshs.3,749,371. However, evidence of meetings or activities undertaken in relation to the expenditures were not presented for audit.

In the circumstances, the occurrence of the allowances and mileage claims payments amounting to Kshs.3,749,371 could not be confirmed.

300. Unconfirmed Imprest Expenditures

The statement of receipts and payments reflects use of goods and services expenditure totalling to Kshs.267,991,879 which, as further disclosed in Note 3 to the financial statements includes imprests amounting to Kshs.148,678,032 that were charged to the respective budget lines upon issuance to officers and were not surrendered upon completion of the respective tasks, as prescribed in Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015.

In absence of imprest surrender records, the occurrence and accuracy of the expenditure totalling Kshs.148,678,032 incurred through imprests and charged to use of goods and services could not be confirmed.

301. Bank Balances

As similarly reported in the previous year, the statement of financial assets and liabilities as at 30 June, 2020 reflects cash and cash equivalents of Kshs.3,244,031 which, as further disclosed in Note 7 to the financial statements excludes a bank balance of Kshs.356,356 held in at a local bank. This is despite of the disclosure of the account under other bank disclosures in Note 8 to the financial statements.

Further, the recurrent cashbook reflects cash in hand balance amounting to Kshs.118,560 as at 30 June, 2020 which is not supported with a Board of Survey Report or disclosed in the financial statements.

In addition, bank reconciliation statement for the recurrent account as at 30 June, 2020 reflects un-analysed receipts in cashbook not yet recorded in the bank statement totalling Kshs.55,369,830 and whose nature has, therefore, not been confirmed.

In the circumstances, the accuracy and fair statement of the reported bank balances totalling Kshs.3,244,031 as at 30 June, 2020 has not been confirmed.

302. Non-Maintenance and Disclosure of Deposits and Retentions Account

Examination of records on construction works indicated that the County Assembly did not maintain a deposits and retentions account although payment records indicated that a sum of Kshs.2,554,536 was deducted from payments made to contractors during the year under review. Further, the deductions were not disclosed in the financial statements.

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In the circumstances, the cash and cash equivalent as at 30 June 2021 is understated.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

303. Excess Revenue Receipts

The County Assembly received Exchequer Releases from the County Treasury totalling Kshs.707,962,885 representing 12.8% of Kshs.5,519,759,147 County revenue for the year. The transfers exceeded the threshold set in Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015, which caps the approved expenditures of a County Assembly at not more than seven per cent (7%) of the total revenues of the County Government or two hundred per cent (200%) of the personnel emoluments of the County Assembly, whichever is lower. The excess transfers amounted to Kshs.321,579,744.

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

304. Delayed Completion of Construction Project

The statement of receipts and payments reflects acquisition of assets costs totalling Kshs.50,475,884, as further disclosed in Note 6 to the financial statements. However, the following unsatisfactory issues were noted in respect to the expenditure:

304.1 Delayed Construction of County Assembly Gallery

Audit inspection confirmed that work on a project to expand the County Assembly initiated in 2018 continued during the year under review. The contract valued at Kshs.26,811,973 included construction of a public gallery at a cost of Kshs.19,181,461 and was due for completion on 13 March, 2020. However, the public gallery had not been completed at the time of the audit in October, 2020.

Further, as reported in the previous year, the County Assembly entered into a contract to build an office at a total cost of Kshs.40,000,000 in 2014. A sum of Kshs.6,402,124 was spent on the project during the year under review which raised the total payments made under the contract to 39,064,413 as at 30 June, 2020. An audit inspection carried out in October, 2020, confirmed that the project was yet to be completed and was behind schedule by five (5) years having been expected to be completed in 2015. Management valued the pending works at Kshs.10,934,430. However, a works certificate dated 11 January, 2019 indicated that the contractor had partially handed over the building to Management even though the contract had not provided for partial completion and handover of the works. Further, the Ministry of Public Works was yet to issue a certificate of occupancy for the building although it had already been put to use.

In addition, examination of the project's records indicated that the cost of the ramp to the building was varied from Kshs.3,103,595 to Kshs.10,589,201 equivalent to 241% increase in the contract price. However, the variation was not subjected to competitive bidding contrary to Section 139 (4)(a) of the Public Procurement and Asset Disposal

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Act, 2015. The provision prescribes that any contract price variation must be based on the prevailing consumer price index obtained from the Kenya National Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya. The variation of works should, in addition, not exceed 20% (twenty per cent) of the original contract value.

In the circumstance, value for money was not obtained from the additional funds totalling Kshs.7,485,606 spent on the project.

305. Irregular Payment for Subscription Fees

During the year under review, the County Assembly incurred an expenditure amounting to Kshs.20,544,835 in respect of other operating costs totalling which constitutes an amount of Kshs.1,300,000 being subscriptions of Kshs.500,000 and Kshs.800,000 paid to the Society of Clerks at the Table and The County Assemblies Forum, respectively. However, the subscriptions were not budgeted for in the estimates for the year. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

306. Failure to Establish Public Finance Management Standing Committee

Review of the operational systems of the County Assembly confirmed that Management had not established a Public Finance Management Standing Committee to provide strategic guidance on public finance management. The omission contravened Regulation 18(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires every County Government entity to establish the Committee. Management may be lacking appropriate advice on use of public funds at its disposal.

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

307. Non-Adherence to the One-Third Basic Salary Rule

Analysis of payrolls indicated that thirty (30) employees drew net salaries that were below one-third of their basic pay contrary to Section 19(3) of the Employment Act, 2007. The provision prohibits employers from deducting more than two-thirds of the wages of an employee at any one time. The excessive deductions resulted from Management allowing the staff to incur loans and other liabilities whose repayments were deducted by check-off. In the circumstance, Management was in breach of the law.

308. Irregular Employment of Ward Staff

Review of the Ward Office records indicated that that four (4) officers were employed in each ward instead of the three (3) prescribed by the Commission on Revenue Allocation in its Circular Ref. CRA/CSO/CMG/9/VOL.V(43) of 28 June, 2018. The

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records indicted the excess staff in the year under review numbered twenty-nine (29) and were retained at an annual cost of Kshs.20,893,812 in salaries and emoluments.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

309. Lack of Risk Management Policy

During the year under review, the County Assembly did not have a risk management policy in place during the year under review. As a result, there were no guidelines on how to mitigate operational and other risks faced by the County Assembly to develop risk management strategies that build robust business operations.

In the circumstances, the County Assembly may not response adequately to events that may affect its operations in an unfavourable way.

310. Lack of an Authorized Staff Establishment

Examination of personnel management systems indicated that the County Assembly did not have an approved staff establishment. As a result, recruitment and retention of staff was not based on approved human resource management plans.

In the circumstances, there was risk of Management misapplying public resources by overemploying staff and failing to recruit and retain those with the skills and competencies required to effectively manage the operations of the County Assembly.

311. Incomplete Disclosure of Fixed Assets

Annex 2, summary of fixed asset register reflected County Assembly assets with historical cost of Kshs.94,057,997. However, Management did not maintain a fixed asset register with information on the nature of the assets and their location, among other details.

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REPORT ON FINANCIAL STATEMENTS

Basis for Qualified Opinion

312. Inaccuracies in the Financial Statements

The financial statements for the year ended 30 June, 2020 reflect various balances which differ with the underlying records as shown below:

Item	Financial Statements Balances (Kshs.)	IFMIS Report Balance (Kshs.)	Variance (Kshs.)
Transfers to Other Government Units	20,000,000	60,000	19,940,000
Other Grants and Transfers	60,000	0	60,000
Acquisition of Assets	54,722,985	74,722,985	(20,000,000)
Bank Balances	622,182	478,582,577	(477,960,395)
Cash Balances	-	(235,620,450)	235,620,450
Accounts Payables - Deposits	603,399	252,216,235	(251,612,836)
Fund Balance brought forward	1,992,646	(9,272,892)	11,265,538
Prior Year Adjustments	1,992,646		1,992,646
Surplus/Deficit for the Year	228,783	1,992,646	(1,763,863)

No satisfactory explanations or reconciliations have been provided for the variances.

In absence of any reconciliation between the two sets of records, the accuracy and completeness of the figures reflected in the financial statements for the year ended 30 June, 2020 could not be confirmed.

313. Unsupported Expenditure - Acquisition of Assets

As disclosed in Note 10 to the financial statements, the statement of receipts and payments reflects an expenditure balance of Kshs.54,722,985 under acquisition of assets, which constitutes an amount of Kshs.29,496,778 relating to construction of buildings. The amount of Kshs.29,496,778 includes payments amounting to Kshs.3,290,480 made to two firms without any supporting documents such as payment vouchers and tender documents to establish the purpose and valuation or nature of the asset(s) procured.

In the circumstances, the propriety and accuracy of the expenditure of Kshs.3,290,480 incurred in acquisition of assets during the year could not be confirmed.

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Other Matter

314. Pending Bills

Disclosure 7.10.1 and Annexure 1 to the financial statements shows that pending accounts payables totalling Kshs.33,420,673, relating to construction of buildings and supply of goods were not settled during the year under review but were carried forward to 2020/2021. Management has not explained why the bills were not settled during the year when they occurred. The County Assembly is at risk of incurring significant interest costs and penalties with the continued delay in payment.

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.

315. Prior Year Unresolved Issues

In the report of the previous year, several issues were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Control, Risk Management and Governance. However, although the Management has indicated that some have been resolved the matters remained unresolved as the Senate and County Assembly are yet deliberated on the Report for 2018/2019.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

316. Doubtful Procurement Process

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.223,299,567 under supply of goods and services which constitutes an amount of Kshs.15,690,858 relating to hospitality supplies and services. Included in the expenditure are two payments amounting to Kshs.1,463,678 made to two hotels for conference facilities for Members of County Assembly (MCAs) and staff. The two service providers were not among the prequalified suppliers of the County Assembly during the year ended 30 June, 2020 and the procurement process used to identify the hotels was not indicated or disclosed. It could not therefore, be confirmed whether the services were procured in accordance with the requirements of the Public procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of the law

317. Delayed Construction of Ward Offices

As disclosed in Note 10 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.54,722,985 in respect of acquisition of assets which constitutes an amount of Kshs.29,496,778 relating to construction of buildings. The balance includes a balance of Kshs.24,894,200 spent on construction of fifteen ward offices. Examination of documents revealed that the contract was awarded to a

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local construction firm on 06 May, 2020 at a contract sum of Kshs.52,489,287 for a contract period of 10 weeks, with a scheduled completion date of 17 July, 2020.

Physical inspection on the site at the time of the audit in November, 2020 revealed that the ward offices had not been completed. The progress of works was about 70% level of completion against an elapsed contract period of 36 weeks (or about 212%). No explanation was provided for the delay. Further, ownership documents for the parcels of land on which the ward offices were being constructed were not provided for audit verification.

As a result, it has not been possible to confirm that the residents will obtain value for money on the expenditure so far incurred on the project.

318. Non-Compliance with Ethnic Diversity

Examination of the human resource records revealed that during the year under review, the total number of employees of County Assembly had sixty-eight (68) permanent employees out of whom fifty-one (51) representing 75% were from the one community in the County. This is 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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

319. Un-updated Fixed Asset Register

Disclosed in Annex 4 to the financial statements, the summary of fixed asset register reflects a balance of Kshs.130,228,559 (2018/2019 Kshs.75,505,574). However, as previously reported, review of records revealed that the Management did not update the register with the additional assets procured during the year and did not indicate the category of assets, date of acquisition and current condition or status of the assets.

Further, two parcels of land on which the County Assembly offices and the Speaker's residence are located with estimated values of Kshs.92,660,000 and Kshs.8,740,000 respectively, were excluded from the summary of fixed assets.

In the circumstances, Management has not instituted proper systems to safeguard the County Assembly’s assets.

320. Internal Audit Function

The County Assembly has established an Internal Audit Unit to carry out independent assessment of systems and controls to promote transparency and accountability of management of the County Assembly’s resources. The Unit has, however, only one officer which hampers any segregation in the allocation of duties. According to the draft

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annual work plan, the unit was to carry out fourteen audit assignments however no report was presented for audit review.

In the circumstances, the County Assembly faces challenges in internal control systems oversight and overall governance in its operations.

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COUNTY ASSEMBLY OF NAKURU - NO.32

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

321. Differences Between Financial Statements and IFMIS Balances

Analysis of the balances reflected in the financial statements presented for audit revealed variances with the balances reported in the IFMIS generated Trail Balance as detailed below: -

Components	Financial Statements Figures (Kshs.)	IFMIS Figures (Kshs.)	Variance (Kshs.)
Exchequer Releases	1,168,608,398	1,143,504,790	25,103,608
Compensation of Employees	342,592,838	188,863,730	153,729,108
Use of Goods and Services	568,609,109	341,247,493	227,361,616
Social Security Benefits	0	22,585,004	(22,585,004)
Transfer to other government entities	16,112,711	0	16,112,711
Acquisition of Assets	244,696,859	254,173,360	(9,476,501)
Finance Costs	22,924		22,924
Other Payments	0	88,330,540	(88,330,540)
Bank Balances	8,358,986	1,080,932,812	(1,072,573,826)
Cash Balances		3,633,744,038	(3,633,744,038)
Accounts Receivable	310,000	9,812,719	(9,502,719)
Accounts Payable	8,118,714	5,112,785,811	(5,104,667,097)

No explanation or reconciliations have been provided.

Further, the statement of receipts and payments and as disclosed under Note 3 to the financial statements reflects compensation of employees amount of Kshs.342,592,838 which is at variance with the reports from the Integrated Payroll & Personnel Database (IPPD) for the year under review of Kshs.339,107,609 resulting to an unexplained and unreconciled variance of Kshs.3,485,229.

In the circumstances, the completeness and accuracy of the balances reflected in the financial statements for the year ended 30 June, 2020 could not be confirmed.

322. Irregular Payment of Board Allowances

The statement of receipts and payments and as disclosed under Note 3 to the financial statements reflects compensation of employees amount of Kshs.342,592,838. Included in the compensation of employees cost are responsibility allowances of Kshs.19,598,000, of which Kshs.2,760,000 was in respect of expenditure on Board allowance for members of the County Assembly Service Board for fifty-three (53)

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sittings during the period. However, review of Board minutes for the financial year revealed that only eighteen (18) sittings were held while the remaining thirty-five (35) sittings could not be confirmed.

In the circumstances, the propriety of the payment of Kshs.19,598,000 Board allowances to Members of the County Assembly Service board could not be confirmed.

323. Unreconciled Committee Expense

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an expenditure of Kshs.568,609,109 in respect of use of goods and services. Included in this amount is an amount of Kshs.84,835,095 in respect of committee meeting expenses This was at variance with the IPPD system and the clocking system reports of Kshs.86,960,636 and Kshs.78,794,300 respectively, resulting to unexplained variances of Kshs.2,125,541 and Kshs.6,040,795.

Further, Members of the County Assembly (MCAs) were compensated for an extra sitting during the month of July, 2019, at a cost of Kshs.1,006,200. This was contrary to the Salaries and Remuneration Commission Circular Ref: No. SRC/TS/CGOVT/3/16 which provides for a maximum of thirty-two (32) sittings per month.

Under the circumstances, the propriety of committee meeting expense of Kshs.84,835,095 for the year ended 30 June, 2020, could not be confirmed.

324. Unsupported Foreign Travel

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an expenditure of Kshs.568,609,109 in respect of use of goods and services. Included in this amount is Kshs.42,260,275 in respect of foreign travel and subsistence allowances which includes an amount of Kshs.9,100,330 and Kshs.12,699,832 in respect of training for Members of County Assembly on Transformational Leadership in a Legislative Framework in Uganda and Management of County Affairs at the Eastern and Southern Africa Management Institute (ESAMI) in Arusha Tanzania respectively. Management did not provide supporting evidence for the expenditure including approval in accordance with Public Service Recruitment and Training Policy.

Under the circumstances, the regularity of Kshs.21,800,162 expenditure on trainings held outside the Country for the year ended 30 June, 2020, could not be confirmed.

325. Over-expenditure on Ward Operation Costs

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an expenditure of Kshs.568,609,109 in respect of use of goods and services. Included in this amount is other operating expenditure of Kshs.113,204,207. This includes ward office operation costs for partisan staff of Kshs.84,205,620 which was at variance with the recomputed amount of Kshs.25,560,054 for the three (3) partisan staff members attached to the seventy-eight (78) Members of County Assembly resulting to an over payment of

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Kshs.58,645,566. This was contrary to the Commission on Revenue Allocation Circular Ref. CRA/CSO/CMG/9/VOL.V(43) of 28 June, 2018 which limits ward operation costs per year per partisan staff to Kshs.109,231.

Further, the operation costs for partisan staff of Kshs.84,205,620, in respect of Assembly Ward operations was disbursed as temporary imprests to Members of County Assembly personal assistants accounts. However, the respective petty cash registers or cashbooks were not maintained to account for the funds.

Under the circumstances, the accuracy and propriety of the reported ward office operation costs of Kshs.84,205,620 for the year ended 30 June, 2020 could not be confirmed.

Other Matter

326. 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.1,242,131,843 and Kshs.1,168,608,398 respectively, resulting to an under funding of Kshs.73,523,445 or 5.9%. Management did not provide explanation for the shortfall in funding which may have negatively impacted on the planned activities for the year thus negatively impacting on service delivery to the residents of Nakuru.

327. Pending Bills

The financial statements and as disclosed under Annex 1 details pending accounts payables of Kshs.90,115,839. However, the supporting schedules to the balance indicated an amount of Kshs.55,119,066 resulting to unexplained variance of Kshs.34,996,773;

Further examination of the supporting schedules revealed that, outstanding payables amounting to Kshs.47,729,176 were unsupported by way of invoices and delivery or services notes to confirm receipt of goods / services;

In addition, the reported pending bills relating to legal fees amounted to Kshs.66,479,206 while the approved budget for the item during the year was Kshs.27,000,000, hence resulting to over expenditure of Kshs.39,479,206. This is despite the Assembly having a fully-fledged legal department in place. No satisfactory explanations were given on the need to external lawyers.

In the circumstances, the accuracy and completeness of the pending bills balance of Kshs.90,115,839 as at 30 June, 2020 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

328. Non-Adherence to a Third of Basic Salary Rule

Examination of the IPPD payroll revealed that eleven (11) officers were paid net salaries below the one third basic salary. This is in contravention of section C.1 (3) of

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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.

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

329. Non-Deduction of Pay as You Earn (PAYE)

Examination of the IPPD payroll for the months of April, May and June, 2020, revealed that there were twenty-three (23) officers who were not subjected to deduction of Pay as You Earn (PAYE). This was contrary to Section 37(1) of the Income Tax Act.

In the circumstances, Management was in breach of law.

330. Construction of the Speaker's House

As reported in the previous year, the County Assembly entered into a contract for the construction of executive residential/ speaker's house at a contract cost of Kshs.42,649,273.40. Audit verification revealed variations on the roofing, swimming pool and the pump house which were not approved. Further, physical verification revealed that the project was behind schedule even after the extension of the contract period by two (2) months while the contract agreement omitted the completion date.

Under the circumstances, value for money has not been achieved due to the delay on completion of the Speaker's House.

331. Committee Meetings Held Outside the Assembly Precinct

Included in the committee meeting expenses (sitting allowances) are allowances for meetings held outside the precincts of the County Assembly amounting of Kshs.12,575,400. This is contrary to Section 165 of the County Assembly's Standing Orders which states that, a sitting of a committee shall be held at such place, date and time as shall be determined by the chairperson or on a petition made by at least seven members of that Committee but no meeting of a committee may be held outside the precincts of the Assembly without the approval of the speaker.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

332. Lack of Implementation of Internal Audit Reports

Audit review revealed that the work plan for the internal audit function was approved in November, 2019. However, the recommendations from internal audit reports were not implemented despite the County Assembly having an Audit Committee.

In the circumstances, oversight over the work of internal audit was weak.

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333. Uncontrolled Fuel and Oils Expenditure

Included in the use of goods and services amount is expenditure on fuel, oil and lubricants of Kshs.2,582,759. However, the fuel usage was not recorded in the individual vehicle work tickets. Also, although the County Assembly use fuel card policy, the use of the fuel cards was not restricted to specific vehicles.

To this extent, the controls over fuel management are weak.

334. Lack of Risk Management Policy

The County Assembly did not have a risk management strategy in place to ensure the development of risk management strategies, which include fraud prevention mechanism and internal control that builds robust business operations.

In the circumstances, the risk management, development of strategies and controls may not have been implemented in an orderly manner.

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Basis for Qualified Opinion

335. Valuation of Fixed Assets

The summary of fixed assets register at Annex 4 to the financial statements reflects assets with a historical cost of Kshs.127,612,045. However, the balance includes buildings and structures valued at Kshs.81,306,051 built on land of undetermined value which is not owned by the County Assembly.

In the circumstances, the value of assets of Kshs.127,612,045 for the year ended 30 June, 2020 could not be confirmed as fairly stated.

336. Unsupported Pending Bills

Annexure 1 to the financial statements reflects pending bills amounting to Kshs.45,450,446 which were outstanding as at 30 June, 2020. However, individual suppliers' files, Acceptance and Inspection Committee minutes and creditors aging analysis were not provided for audit review. Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

In the circumstances, the accuracy of the pending bills of Kshs.45,450,446 for the year ended 30 June, 2020 could not be confirmed.

337. Omitted Prior Year Balance

The statement of receipts and payments reflects a nil comparative balance under transfers to other Government entities while the audited financial statements for the financial year 2018/2019 reflected an amount of Kshs.198,499 in respect of transfers to other Government entities. The resultant difference of Kshs.198,499 was not explained or reconciled.

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

338. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects an expenditure of Kshs.294,901,612 on use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.171,374,908 incurred on travel and subsistence allowances. However, payment vouchers were not fully supported with approvals, attendance schedules and request for invitations.

Further, included in the expenditure of Kshs.294,901,612 on use of goods and services is also an amount of Kshs.7,615,000 relating to rentals of produced assets which in turn includes an amount of Kshs.6,300,000 paid for rent of Ward Offices for all Members of the County Assembly. However, payments were not supported by lease agreements and other relevant procurement documents. Further, the method used to identify the Ward Offices and determine the rent payable was not disclosed.

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In the circumstances, the accuracy and propriety of expenditure totalling Kshs.177,674,908 incurred on travel and subsistence allowances and rentals of produced assets could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

339. Non - Compliance with Public Procurement and Asset Disposal Act, 2015

During the 2019/2020 financial year, the County Assembly had a budget of Kshs.151,723,495 in its procurement plan. However, review of procurements awarded during the financial year revealed that Management did not allocate thirty per cent (30%) of the procurements to women, youth, persons with disabilities and other disadvantaged groups contrary to the provisions of Section 53(6) of the Public Procurement and Asset Disposal Act, 2015.

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

340. Payments of Staff Outside IPPD

As reported in the previous year, examination of the payroll revealed that the County Assembly of Narok incurred a net salary of Kshs.150,249,096 out of which Kshs.85,728,516 or 57% was paid outside the IPPD System. No reasons were provided why some of the employees' salaries were not processed through the IPPD in the System.

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

341. Non - Compliance with One Third Rule on Regional Balance

As reported in the previous year, the list of ethnic composition of the staff of County Assembly of Narok was not provided for audit. It was therefore not possible to confirm whether County Assembly of Narok complied with 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 one ethnic community.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

342. Lack of Audit Committee

The County Assembly had not constituted an Audit Committee, contrary to Regulation 167 of the Public Finance Management (County Governments) Regulations, 2015 which requires each public entity to establish an Audit Committee.

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Basis for Qualified Opinion

343. Variances Between Financial Statements and IFMIS Figures

The statement of receipts and payments for the year ended 30 June, 2020 reflects total expenditure of Kshs.644,771,623. Included in this expenditure is Kshs.374,041,437 in respect of use of goods and services as disclosed under Note 5 to the financial statements. This differs from the IFMIS ledger amount of amount of Kshs.309,158,196 resulting to an unexplained and unreconciled variance of Kshs.64,883,241.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.374,041,437 in respect of use of goods and services for the year ended 30 June, 2020 could not be confirmed.

Other Matter

344. Budgetary Control and Performance

The statement of appropriation-recurrent and development combined reflects final budget expenditure and actual on comparable basis of Kshs.785,759,406 and Kshs.644,771,623 respectively resulting in under-absorption of Kshs.140,987,783 or 18% of the budget. The budget under-utilization mainly occurred under acquisition of assets. This implies resources earmarked for development activities were lying idle. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Further, the County Assembly received exchequer releases amounting to Kshs.645,016,148. Included in this amount is Kshs.232,388,635 received between during the month of June, 2020. The delay in disbursements of funds by The County Treasury adversely affected delivery of services to the residents.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

345. Irregular Subscriptions to the Society of Clerks at the Table (SOCATT) and County Assembly Forum

The During the year under review, the County Assembly incurred an expenditure other operating costs totalling to Kshs.66,638,667 which constitutes an amount of Kshs.1,000,000 being subscriptions of Kshs.500,000 and Kshs.500,000 paid to the Society of Clerks at the Table and The County Assemblies Forum respectively. However, the subscriptions were not budgeted for in the estimates for the year. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution established

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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.

346. Non-Compliance with Law on Ethnic Composition

A review of Human Resource records maintained by the Assembly revealed that the Assembly had eighty-two (82) employees as at 30 June, 2020 out of which seventy-nine percent (79%) were from the dominant community. This was contrary to the provisions of Section 65(1)(e) of the County Governments Act, 2012 which requires the County Public Service Board to ensure that at least thirty percent (30%) of the vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community.

In the circumstances, Management was in breach of law.

347. Non-Compliance with the Law on Fiscal Responsibility - Wage Bill

During the year under review the County Assembly spent Kshs.246,049,065 on compensation of employees being 38% of total County revenue of Kshs.645,016,148. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Executive`s expenditure on wages and benefits to not more than 35% of the total revenue for the year.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

348. Fixed Asset Register

Included in Annex 4 to the financial statements is a summary of fixed assets register with assets balance of Kshs.306,324,421 as at 30 June, 2020. However, during the year under review, the County Assembly did not maintain up to date assets register.

In the circumstances, existence of effective control measures on assets could not be confirmed.

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Basis for Qualified Opinion

349. Unsupported Cash and Cash Equivalent Balance

The statement of financial assets and liabilities reflects cash and cash equivalent amounting to Kshs.431,169 which, as disclosed under Note 13 to the financial statements includes a balance of Kshs.302,730 held in the Development Bank account at the Central Bank of Kenya but at variance with the cash book balance of Kshs.11,240,801.

In the circumstances, the accuracy and completeness of the reported cash and cash equivalents balance of Kshs.431,169 as at 30 June, 2020 could not be confirmed.

350. Payment of Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services balance of Kshs.326,449,090 which, as disclosed under Note 5 to the financial statements includes domestic travel and subsistence expenditure of Kshs.132,134,208. The balance includes an amount of Kshs.2,024,000 and Kshs.378,000 paid to forty eight (48) Members of the County Assembly and ten (10) members of staff respectively, while travelling to Mombasa for a meeting on the Supplementary Budget FY 2019/2020 from 4th to 6th February, 2020. Management did not provide evidence in support such as the attendance register and approvals for the meeting.

In the circumstance, the regularity of expenditure of Kshs.2,402,000 for the year ended 30 June, 2020 could not be confirmed.

Other Matter

351. Budgetary Control and Performance

The statement of comparative budget and actual amounts recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.722,825,543 and Kshs.702,151,381 respectively resulting to an under-funding of Kshs.20,674,162 or 3% of the budget. Similarly, the County Assembly expended Kshs.701,720,212 against an approved budget of Kshs.722,825,543 resulting to an under-expenditure of Kshs.21,105,331 or 3% of the budget.

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

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

352. There were no material issues on lawfulness and effectiveness in use of public resources noted during the audit.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT GOVERNANCE

Conclusion

353. There were no material issues on effectiveness of internal controls, risk management governance noted during the audit.

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REPORT ON THE FINANCIAL STATEMENTS

Unqualified Opinion

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

Other Matter

355. Budgetary Control and Performance

The statement of comparison of budget and actual amounts-development and recurrent combined reflects an approved budget totalling Kshs.707,606,978.

Actual receipts totalled Kshs.707,246,000 whereas actual expenditure totalled Kshs.707,606,978 resulting in a small under-expenditure of Kshs.59,820 or a 99% absorption rate.

356. Previous Year's Issues

The audit report or the previous (2018/2019) financial year highlighted several issues relating to lawfulness and effectiveness in use of public resources. The report on follow-up on progress made in resolving the issues at Annex 7 of other important disclosures indicates that the issues have since been resolved.

The actual status of the matters shall be confirmed after they are deliberated upon by the Legislature.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

357. Salaries Paid Outside the Authorized System

Salaries and wages totalling Kshs.31,376,078 for three (3) Members of the County Assembly and eleven (11) employees of the County Assembly were paid outside the Integrated Personnel Payroll Database (IPPD) system prescribed by the National Treasury.

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

358. Non-Compliance with the Employment Act, 2007 - Adherence to One-Third Basic Salary Rule

Analysis of payrolls revealed that twenty-three (23) employees drew net salaries that were below one-third of their basic pay contrary to Section 19(3) of the Employment Act, 2007. The law provides that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time should not exceed two-thirds of the basic pay.

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

359. Delayed Construction of Perimeter Wall

Examination of records on acquisition of assets disclosed a long delay in completion of a project for construction of a boundary wall and two gate houses whose contract was issued on 18 October, 2016. Review of records on the works indicated that the contractor had as at 30 June, 2020 been paid Kshs.13,083,000 equivalent to forty-one (41%) percent of certified work. However, physical verification of the project site in November, 2020, indicated that the boundary wall had only been partially built as there were several unfenced open spaces that were covered with iron sheets. No construction work was ongoing even though the contract was four years (4) behind schedule. Management did not provide the expected date of its completion.

Further, review of records provided for audit indicated that a meeting held between the contractor and the Contract Implementation Committee on 3 November, 2020 agreed to recommend to Management that the contract be terminated on mutual consent.

In view of the failure to complete the wall and gate houses, the enhancement in public funds totalling to Kshs.13,083,000 expended on the project could not be confirmed. In the circumstances, value for money could not be ascertained.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

360. Lack of a Risk Management Policy

Review of records provided revealed that Management had not established a Risk Management Policy and Strategy. The Information Communication Technologies, ICT has not developed risk management strategies that include fraud prevention mechanisms and internal controls that support robust business operations.

In the circumstance, Management may not manage operational and other risks that the County Assembly may face.

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Basis for Qualified Opinion

361. Inaccuracies in Cash and Cash Equivalents

The statement of financial assets and liabilities and as disclosed in Note 6 to the financial statements reflects bank balances of Kshs.31,843,480 which comprises balances of Kshs.31,803,747 held at Central Bank recurrent account and Kshs.39,733 at Co-operative Bank. The certificate of bank balance for the Central Bank of Kenya recurrent account was not provided for audit review. Further, review of the Co-operative Bank account cashbook revealed that the audited balance carried down from the financial year 2018/2019 was Kshs.571,775 which was at variance with the debit opening balance Kshs.251,485 for the financial year 2019/2020 resulting to an unexplained and unreconciled variance of Kshs.823,260.

In addition, the bank balance of Kshs.39,733 in respect of the Co-operative Bank account was at variance with cashbook closing bank balance of Kshs.4,955,637 resulting to a variance of Kshs.4,915,904.

In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.31,843,480 as at 30 June, 2020 could not be confirmed.

362. Unsupported Expenditure on Personal Allowances Paid as Part of Salary

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees' balance of Kshs.562,224,984. Included in this amount are personal allowances paid as part of salary amounting to Kshs.284,152,324 in respect of sitting allowances for the Members of County Assembly (MCAs). However, the schedule provided for audit reflected a balance of Kshs.131,255,800 resulting to a variance of Kshs.152,896,524. Further, the attendance register for the plenary sittings and minutes of the committee sittings were not provided for audit review.

In the circumstances, the accuracy and propriety of the reported personal allowances paid as part of salary in respect of sitting allowances for the Members of County Assembly amounting to Kshs.284,152,324 could be confirmed.

363. Unsupported Expenditure on Use of Goods and Services

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.407,248,082. A review of the expenditure records revealed the following:

363.1 Domestic Travel and Subsistence Expenditure

The balance includes an amount of Kshs.174,251984 in respect of domestic travel and subsistence out of which an amount of Kshs.18,104,000 was paid to the COVID-19 Committees. However, there was no evidence that the amounts paid was received and signed for by the beneficiaries.

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363.2 Foreign Travel and Subsistence Expenditure

Further, the balance includes an amount of Kshs.10,969,800 in respect of foreign travel and subsistence. Review of the expenditure records revealed that an amount of Kshs.3,525,200 was paid to Members of County Assembly and staff for foreign travel. However, Management did not provide supporting documents for the foreign travel such as letters of invitation, authority by accounting officer to travel, stamped passports, boarding passes and back to office reports.

363.3 Motor Vehicle Insurance Costs

In addition, the balance includes an amount of Kshs.45,314,484 in respect of insurance costs. Review of the expenditure records revealed that an amount of Kshs.1,295,760 was incurred by the County Assembly in respect of insurance premiums for two motor vehicles whose valuation reports as well as policy documents were not provided for audit review.

363.4 Rental for Produced Assets Expenditure

Similarly, included in the use of goods and services amount is Kshs.36,955,750 in respect to rentals for produced assets. Review of the expenditure records revealed that Kshs.321,000 was spent in respect of rent payment for ward offices. However, the payment was not supported with details of the offices being paid for or the period for which the payment was made. Further, no explanation was provided for paying the amount in excess of the recommended monthly rent of Kshs.10,000 for a county ward.

363.5 Routine Maintenance - Other Assets Expenditure

The balance also includes an amount of Kshs.4,309,118 in respect to routine maintenance - other assets. Review of the expenditure records revealed that transactions worth Kshs.2,123,888 were not supported with local service orders, inspection and acceptance certificates and completion certificates.

In the circumstances, the accuracy and propriety of the use of goods and services amount of Kshs.407,248,082 could not be confirmed.

364. Unsupported Acquisition of Assets

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects acquisition of assets balance of Kshs.6,074,750. Review of the expenditure records revealed payments totalling to Kshs.5,054,905 was not supported with invoices, delivery notes, inspection and acceptance certificates, goods received notes and local purchase orders. Further, it was also noted that the payment vouchers were not pre-numbered.

In the circumstances, the accuracy and propriety of Kshs.5,054,905 reported under acquisition of assets could not be confirmed.

365. Doubtful Pending Accounts Payable

Annex 1 of the financial statement reflects an amount of Kshs.90,790,260 in respect of analysis of pending accounts payable. The following was observed:

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i. The County Assembly incurred expenditure of Kshs.1,980,677 on procurement of ICT equipment. However, the ICT equipment could not be traced during physical verification. Management did not provide explanations on the whereabouts of the equipment

ii. The County Assembly incurred expenditure of Kshs.4,110,000 in respect of provision for sanitizing equipment. A review of the supporting records indicated that the sanitizing equipment was received and taken on charge. However, the items could not be located on physical verification.

iii. The County Assembly incurred expenditure of Kshs.625,630 in respect of training of personnel on COVID 19 management. However, there was no evidence to support the selection of the service provider and pricing of the training.

iv. The County Assembly incurred expenditure of Kshs.4,590,000 in respect of fumigation of sixty ward offices. However, there was no evidence to support the selection of the service provider and award was done.

In the circumstances, the accuracy, completeness and fair statement of the pending accounts payable amount of Kshs.90,790,260 as at 30 June, 2020 could not be confirmed.

366. Pending Bills

During the year under review, the County Assembly of Kakamega made recoveries amounting to Kshs.8,152,880 during the month of June, 2020. However, at the time of audit, in September, 2020, the monies had not been remitted to the Car Loan and Mortgage Fund and not disclosed as pending accounts payable.

367. Overstatement of Pending Accounts Payables

Annex 1 of the financial statements reflects an analysis of pending accounts payables of Kshs.90,790,260. Included in this figure is Kshs.18,000,000 in respect of legal services. However, it was observed that the amount related to a contingent liability that was erroneously disclosed as a pending accounts payable instead of a Note to the financial statements in line with Paragraph 1.3.11 of International Public Sector Accounting Standard (IPSAS Cash Basis).

In the circumstances, the pending accounts payable is overstated by Kshs.18,000,000.

368. Incomplete Fixed Asset Register

The summary of fixed asset register at Annex 2 to the financial statements does not disclose the historical costs brought forward from financial year 2018/2019 and historical costs carried forward in the year 2019/2020.

In the circumstances, the accuracy and completeness of the summary of fixed assets register as at 30 June, 2020, cannot be confirmed.

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Other Matter

369. Delayed Disbursement of Exchequer Releases

The statement of receipts and as disclosed in Note 9 to the financial statements reflects transfers from the County Treasury/Exchequer releases amount of Kshs.1,066,936,774. However, a review of Exchequer issues revealed that the County Assembly had not received Kshs.89,562,486 as at 30 June, 2020 being part of the disbursements expected. The delay in disbursements of funds by The County Treasury adversely affected implementation of projects for financial year 2019/2020.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

370. Irregular Payment of Hospital Bill

The County Assembly incurred expenditure of Kshs.45,314,484 in respect of insurance costs. Review of expenditure records revealed that an amount of Kshs.36,998,070 was paid in respect of Members of the County Assembly and staff medical cover. However, the County Assembly paid a hospital bill of Kshs.1,708,154 for a Member of County Assembly who was a beneficiary of the medical cover. No explanation was provided why the expenditure was not met through the staff medical insurance cover.

In the circumstances, value for money could not be confirmed for the Kshs.36,998,070 on medical cover scheme.

371. Purchase of Biometric Equipment

The County Assembly incurred expenditure of Kshs.2,055,000 in respect of purchase of communication equipment which includes an amount of Kshs.1,726,000 for supply and installation of biometric attendance equipment. However, although the equipment was delivered, it had not been installed at the time of the audit.

In the circumstances, the value for money has not been realised on purchase of the biometric equipment.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for conclusion

372. Failure to Constitute an Audit Committee

During the year under review, the County Assembly had not constituted an Audit Committee to ensure that the County Government entity has an Audit Committee in place to play oversight role over the activities of the County Assembly may not be possible.

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In the circumstances, the existence of an alternative oversight for the County Assembly speculation could not be established.

373. Lack of Information Communication Technology Policies

As reported in the previous year, review of the Information and Communication Technology (ICT) of the County Assembly revealed that the Assembly did not have an IT Policy, Data Recovery Plan (DRP) and IT security policy in the year 2019/2020. Further, the County Assembly did not have an IT steering committee which is important in performing the oversight function and formulation of policies.

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

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

374. Use of Goods and Services

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.198,237,783 on use of goods and services. Examination of available records revealed the following unsatisfactory matters:

374.1 Unauthorised Expenditure - Foreign Travel and Subsistence

The balance includes a balance of Kshs.16,849,650 in respect of foreign travel and subsistence against an approved budget of Kshs.2,960,000 resulting to an over-expenditure of Kshs.13,889,659 or over 469% of the approved budget. Examination of payment vouchers and accompanying supporting documents revealed that the amount was paid to Members of County Assembly on diverse dates. However, the Speaker and the Clerk to the Assembly were not served with a written notice indicating the destinations, dates of intended travel and period of absence from Kenya and contacts of the members during the period of absence.

374.2 Overpayment to an Arbitrator

Further, the balance includes an amount of Kshs.10,452,731 under other operating expenses which constitutes an amount of Kshs.2,692,029 paid to an arbitrator in a dispute between the County Assembly and a company which had been awarded a tender for the construction of boundary wall and renovations of office blocks during the 2013/2014 financial year. The arbitrator ought to have been paid an amount of Kshs.1,942,120 but was instead paid an amount of Kshs.2,692,092 leading to overpayment by Kshs.749,972.

The County Assembly may have lost Kshs.749,972 as overpayment for the year ended 30 June, 2020 and Management has not instituted recovery strategy to recover the loss or determine the officer(s) who occasioned the loss.

374.3 Unsupported Expenditure

In addition, the balance includes domestic travel and subsistence allowance balance of Kshs.112,338,600 which constitutes an amount of Kshs.6,774,600 paid to the Clerk of the Assembly but was not supported with relevant documents such as signed payment schedules, invitation letters, attendance registers and approval by the Speaker of the County Assembly.

In the circumstances, the propriety in the utilisation of public resources amounting of Kshs.23,356,285 utilised under use of goods and services could be confirmed.

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375. Unsupported Transfers to Other Government Entities

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.77,373,262 in respect of transfers to other government entities. The balance includes an amount of Kshs.50,320,797 paid as tax arrears to Kenya Revenue Authority. However, review of records indicated that the Assembly owed KRA tax due balance of Kshs.42,320,796 resulting to an overpayment of Kshs.8,000,000.

Further, the balance includes an amount of Kshs.4,000,000 being transfers to County Treasury. However, confirmation or evidence that the amount was received by the County Treasury was not provided for audit review.

In the absence of any explanation, the propriety of the expenditure amounting to Kshs12,000,000 under other grants and transfers could not be confirmed.

376. Irregular Payment of Salary Advances

As disclosed in Note 2 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.312,663,024 in respect of compensation of employees which includes basic salaries amounting to Kshs.178,447,275. However, a review of the expenditure revealed that Management had issued salary advances to staff members amounting to Kshs.3,114,000. Examination of personnel records revealed that officers were issued with salary advances in excess of the employees' net salaries. Further, most of the salary advances were issued to Members of County Assembly, MCAs who are not permanent staff of the organization while in some instances, salary advances request forms did not reflect amount to be recovered and the recovery period making the applications incomplete.

In the circumstances, the propriety of the expenditure amounting to Kshs12,000,000 under other grants and transfers could not be confirmed.

Other Matter

377. Pending Bills

According to Note 11.1 and 11.2 to the financial statements, the County Assembly had pending accounts payables totalling to Kshs.77,537,527 as at 30 June, 2020. A review of the records indicates that the balance relates to amounts borrowed from Car Loan and Mortgage Fund which includes long outstanding car loan and mortgage arrears totalling to Kshs.51,937,527 brought forward from 2018/2019. Management had not explained why the bills were not settled during the year when they occurred and the County Assembly risks incurring additional loss in form of interest and penalties arising from continued delay in payment.

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.

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378. 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 or included any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref. No. AG.4/16/3/Vol.1(9) of 24 June, 2020.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

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

During the year under review, six (6) employees earned a net salary below one third (1/3) of the basic salary in the month of September, 2020, contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. Management has not given explanation for failure to comply with the policy as well as the Employment Act 2007 Section 19 (3), which does not permit employees to commit their salaries in excess of two-third of their basic salaries. This may expose the staff to pecuniary embarrassment.

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

380. Staff Ethnic Composition

Review of the Human Resource records revealed that out of the County Assembly's total employees of two hundred and fifteen (215) employees, two hundred and six (206) officers or 96% are from the dominant community in the County. This is contrary to Section 65(1)(e) of the County Governments Act, 2012 which provides that the County public service board should ensure that at least thirty percent (30%) of the vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community in the county.

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

381. Non-Compliance with the County Assembly Standing Orders-Payments for Activities Outside the County Assembly Precincts

During the year under review, Management paid Kshs.8,760,500 to the County Assembly leadership and secretariat for activities outside the County Assembly precincts. These activities were carried out without the approval of the Speaker contrary to section 169 of the County Assembly Standing orders which states that any sitting of a committee shall be held at such place, date and time as shall be determined by the Chairperson or on a petition made by at least seven members of that committee but no meeting of a Committee may be held outside the precincts of County Assembly without the approval of the Speaker.

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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

382. Outstanding Staff Imprest

As disclosed in Annex 4, the statement of financial assets and liabilities reflects a balance of Kshs.4,617,391 in respect of accounts receivables - outstanding imprests. The imprest register was not updated to indicate the current outstanding imprest balance and the purpose was not disclosed while copies of imprest warrants were not provided for audit review. The imprest schedule provided for audit revealed that imprests issued between July, 2016 to June, 2020 had not been surrendered by 30 June, 2020

In the circumstances, Management has not instituted an effective and efficient internal controls system to safeguard public resources.

383. Lack of an Effective Internal Audit Unit

The County Assembly Internal Audit Unit is manned by two officers who were appointed separately to the position of internal auditor in 2014 without the determination of who was in-charge. However, evidence provided during the time of the audit revealed that there was no Head of Internal Audit Unit and the Audit Committee had not been constituted.

In the circumstances, it has not been possible to confirm whether the County Assembly has an effective and a functional Internal Audit function to guide and oversee the operation of the County Assembly.

384. Weak Information Communication Technology Controls

Audit review of the County Assembly Information and Communication Technology (ICT) revealed that the County Assembly did not have a data recovery plan and IT Security Policy which are vital in effective and efficient management of the IT resources. The County Assembly does not have an IT Steering Committee to carry out oversight function and formulation of policies and ensure that the IT department is in place to deliver its organizational objectives. It was also noted that most records were manually maintained.

In the circumstances, the County Assembly operations are not efficiently and effectively monitored or controlled and the risk of loss of data and other resources would occur and remain undetected.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

385. Unsupported Fixed Asset Balances

The summary of fixed asset register at Annexure 3 to the financial statements reflects assets totalling to Kshs.700,100,538 as at 30 June, 2020. However, the County Assembly did not maintain an updated asset register to indicates the nature, physical location and fair value of the County Assembly's assets, contrary to Regulation 136(1) of the Public Financial Management (County Governments) Regulations, 2015, which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, the accuracy and completeness of the total assets balance of Kshs.700,100,538 as at 30 June, 2020 could not be ascertained.

Other Matter

386. Non-Disclosure of Pending Accounts Payables

As disclosed in Note 3.10(1) on other important disclosures and Annex 1 to the financial statements, the County Assembly had pending bills of Kshs.58,900,906 due to suppliers of goods and services as at 30 June, 2020. Further, Annex 2 to the financial statements, indicates that the County Assembly had Nil other pending payables due to county government entities as at 30 June, 2020.

Further, records maintained by the Bungoma County Assembly Car Loan and Mortgage Scheme Fund indicates that the County Assembly had borrowed an amount of Kshs.72,289,089 from the Fund during the year under review. This is in addition to a balance brought forward of Kshs.36,722,914 to bring the total amount which the County Assembly owes the Fund to Kshs.109,012,003. The Assembly had refunded a total of Kshs.41,932,158, resulting to an outstanding balance of Kshs.67,079,845 as at 30 June, 2020.

In addition, records maintained by the Bungoma County Assembly Employee Car Loan and Mortgage Scheme Fund indicated that the County Assembly borrowed an amount of Kshs.4,966,431 from the Fund during the year under review. This is in addition to balance brought forward of Kshs.17,190,318, bringing the total debt to Kshs.22,156,749. The Assembly had refunded Kshs.9,591,024, leaving a balance of Kshs.12,565,725 as at 30 June, 2020.

The total debt of Kshs.79,645,570 owed to the two Funds had not been disclosed in the financial statements. In the circumstances, the accuracy of the other pending payables balance of nil as at 30 June, 2020 could not be confirmed.

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Basis for Conclusion

387. Delayed Completion of Office Block

The statement of receipts and payments reflects an expenditure of Kshs.159,134,172 under acquisition of assets which, as disclosed in Note 8 to the financial statements, includes an amount of Kshs.141,531,863 incurred on construction of buildings. The amount was paid to a local contractor for a contract awarded for construction of the County Assembly's office block at a contract sum of Kshs.447,768,217.

As previously reported, the contract was to be carried out in eighteen (18) months with expected completion date of May, 2018 which was later revised to 178 weeks pushing the completion date to 30 September, 2020. However, at the time of audit in December, 2020, two months after the revised completion date had expired, the project was approximately 89% complete and it was not known when the same would be completed.

Further, documentation for application and approval of a revised completion date in line with the provisions of Section 139(2) of the Public Procurement and Asset Disposal Act, 2015, which requires an Accounting Officer of a procuring entity, on the recommendation of an Evaluation Committee, to approve the request for the extension of contract period accompanied by a certificate from the tenderer was not provided for audit verification.

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

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

The statement of receipts and payments reflects an expenditure of Kshs.455,255,383 under use of goods and services which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.265,022,475 in respect of hospitality supplies and services. The later balance included an amount of Kshs.3,559,700 paid to a local firm in respect of training services but was captured under hospitality supplies and services. This is contrary to Regulation 43(2) of the Public Finance Management (County Governments) Regulations, 2015 that requires a County Government entity to execute their approved budgets based on the annual appropriation legislation, and the approved annual cash flow plan, with the exception of unforeseen and unavoidable spending dealt with through the County Emergency Fund or supplementary estimates.

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

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Basis for Conclusion

389. Weakness in Information and Communication Technology

Review of governance documents revealed that Management had not established an ICT Strategic Committee at the Board level, there was no ICT Strategic Plan while the roles and responsibilities for each ICT function were not defined.

Further, there was no tangible plan in place to ensure up-to-date security on all systems software including patch management process and instead only manual methods were used.

In addition, there was no formal change request documentation completed indicating the change to be made and the reasons for all changes to the financial systems for any system upgrades. No documented and tested emergency procedure has been put in place, no ICT Continuity and Disaster Recovery Plan and no Back-Up and Retention Strategy.

In the circumstances, the Assembly's ICT infrastructure and resources were not managed in line with the best practices and may have challenges in restarting in case a disaster occurs.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

390. Presentation and Accuracy of Financial Statements

Review of the financial statements presented for audit revealed a number of inconsistencies between the financial statements balances and those in the primary records such as the ledger, supporting schedules among others as outlined below: -

a) The statement of receipts and payments for the year ended 30 June, 2020 reflects compensation of employees' total expenditure of Kshs.380,343,284 which differs with total expenditure of Kshs.381,756,466 shown in the monthly payment vouchers by Kshs.1,413,182. Further, the supporting schedules amounts to Kshs.380,119,071 leading to unreconciled difference of Kshs.224,213. The three sets of records have not been reconciled.

b) Further, the statement of receipts and payments reflects an amount of Kshs.33,470,919 under social security benefits for Members of County Assembly and staff while monthly supporting schedules reflect gratuity totalling Kshs.24,823,073 resulting to a variance of Kshs.8,647,846. Management has explained that the resultant difference between the two sets of records was paid to defined pension funds LAPFUND, LAPTRUST and NSSF for permanent and pensionable staff but has not provided any supporting documents for review.

c) The statement of receipts and payments reflects a balance of Kshs.320,391,933 in respect of use of goods and services which differs significantly with total amounts shown in the supporting schedules of Kshs.288,144,714 by Kshs.32,241,219.

d) As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.131,528,476 under other operating expenses which constitutes expenditure of Kshs.1,254,300 and Kshs.2,967,555 on conference and hospitality and domestic travel respectively. The expenditure ought to have been accounted for under hospitality supplies and services; and domestic travel and subsistence respectively.

e) The financial statements reflect nil outstanding salary advance balance for the years 2019/2020, while the ledger and supporting schedules provided for audit review reflect outstanding salary advances totalling Kshs.13,615,891. No explanation was provided for not reporting the advances in the financial statements.

f) The statement of assets and liabilities reflects accounts payable – deposits balance of Kshs.14,309,581 which differs with corresponding balance of Kshs.14,359,397 in the supporting schedule by un-reconciled variance of Kshs.49,816. Further, the balance of Kshs.14,309,581 includes salary advance recovery of Kshs.953,139 which is not a liability or payable but has the effect of setting off the liability.

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g) The report on budget execution by programmes and sub-programmes includes three programmes which have no descriptions. Further, sub-programme number 0 – Default Non-Programmatic, under programme one of the programme reflects actual payments with a negative amount of Kshs.313,191, which has not been explained.

h) Management did not include in the financial statements details of pending accounts payable, pending staff payables and other pending payables as at 30 June, 2020 and related party transactions for the year then ended but instead has included details relating to previous period that ended 30 June, 2019 as reflected in the financial statements then.

i) The summary of fixed assets registers included in the financial statements at annex 4 is the same as the one in the previous financial statements for the period that ended 30 June, 2019. This does not incorporate additional fixed assets of Kshs.104,741,428 acquired during the year under review.

In the absence of any reconciliation and explanation, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

391. Compensation of Employees

Included in the compensation of employees' expenditure of Kshs.380,343,284 and recorded in the supporting schedules are basic salaries of permanent employees and personal allowances paid as part of salary totalling to Kshs.58,677,977 for which, names of the payees were not indicated in the supporting schedules.

In the circumstances, the validity of the beneficiaries and propriety of the expenditure of Kshs.58,677,977 could not be ascertained.

392. Unsupported Cash and Cash Equivalents

As disclosed in Note 9A to the financial statements, the statement of assets and liabilities as at 30 June, 2020 reflects a balance of Kshs.14,690,600 under cash and cash equivalents which was held in four bank accounts. However, the relevant certificates of bank balances for the respective bank accounts and bank reconciliation statements for the four bank accounts were not provided for review.

Further, the statement of financial assets and liabilities reflects prior year adjustment amount of Kshs.33,747,678 which comprises bank accounts balance of Kshs.4,694,416. However, no explanation has been given for the adjustments.

In the circumstances, it has not been possible to confirm whether the cash and cash equivalents balance of Kshs.14,690,600 as at 30 June, 2020 is fairly stated.

393. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.320,391,933 under use of goods and services which constitutes an amount of Kshs.20,000,000 being foreign travel and subsistence expenses. The balance includes Kshs.1,739,304 paid as allowances to members of

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the Health and Sanitation Committee when they reportedly attended training in Kampala, Uganda from 18 to 24 August, 2019. However, the expenditure was supported only with an unsigned report on the training. Training programme and receipts obtained for transport services were not provided for audit verification.

Further, three delegates from the County Assembly travelled to the United Nations Headquarters in New York to participate in a training on the Status of Women from 11 to 22 March, 2019 and were paid allowances amounting to Kshs.2,287,836. However, supporting documents such as the training program and training reports were not provided for audit verification.

In view of the foregoing, the propriety of the expenditure amounting to Kshs.4,027,140 could not be ascertained.

394. Unaccounted for Salary Advance Recoveries

The statement of financial assets reflects a balance of Kshs.1,958,703 under accounts receivables which constitutes outstanding imprests and clearance account. However, examination of records and salary advances schedule indicate that salary advance recoveries during the financial year under review amounted to Kshs.12,109,051, while salary advances banked in the deposits account during the year amounted to Kshs.9,708,708 resulting to an unexplained for variance of Kshs.2,400,343.

Further, the statement of financial assets and liabilities reflects prior year adjustment amount of Kshs.33,747,678 which comprises receivables-outstanding imprests amount of Kshs.29,053,262. However, no explanation has been given for the adjustments.

In the circumstances, the completeness of the accounts receivables balance of Kshs.1,958,703 could not be ascertained.

Other Matter

395. 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 had not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: AG.4/16/3 Vol.1(9) dated 24 June, 2020.

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REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

396. Long Outstanding Imprests

Examination of temporary imprest records revealed that outstanding imprests as at 30 June, 2020 amounted to Kshs.1,958,703 which had not been accounted for or surrendered within seven (7) working days after returning to duty station, contrary to Section 93(5) of the Public Finance Management (County Governments) Regulations, 2015. Further, no evidence was provided to show that the imprests were being recovered with interest from the defaulting officers' salaries as required by Section 93(6) of the Public Finance Management (County Governments) Regulations, 2015.

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

397. Non-Compliance with One Third Pay Rule on Basic Salary

During the year ended 30 June, 2019, review of Human Resource records revealed that two hundred and sixty-two (262) 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 as this may expose the staff to pecuniary embarrassment. The Management did not give explanation for failure to comply with the policy.

In the circumstances, Management was in breach of law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT GOVERNANCE

Conclusion

398. There were no material issues on effectiveness of internal controls, risk management governance noted during the audit.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

399. Variances Between IFMIS and Vote Book Balances

Comparison between the vote book balances and the IFMIS payment details balances revealed various variances as detailed below.

Items	Vote Book Total Payments (Kshs.)	IFMIS Total Payments (Kshs.)	Variance (Kshs.)
Compensation of Employees	212,319,763	65,324,781	146,994,982
Transport Allowance	176,383,462	145,461,294	30,922,168
Leased Communication Lines	4,179,861	4,087,741.00	92,120
Sundry Items (Airport Tax, Taxi Etc)	836,400	852,400	(16,000)
Subscriptions to Newspapers, Magazines and Periodicals	356,460	326,460	30,000
Advertising Awareness and Publicity Campaigns	4,530,302	6,764,702	(2,234,400)
Catering Services (Receptions) Accommodation, Gifts, Food and Drinks	25,952,975	26,273,955	(320,980)
Boards Committees, Conferences and Seminars	8,248,270.00	8,726,270	(478,000)
Purchase of Uniforms and Clothing-Staff	1,516,570	1,952,498	(435,928)
General Office Supplies (Papers, Pencils, Forms, Small Office Equipment Etc)	13,595,164	13,896,024	(300,860)
Contracted Guards and Cleaning Services	6,411,860	7,724,420	(1,312,560)
Membership Fees, Dues and Subscription to Professional and Trade Bodies	5,313,724	5,322,124	(8,400)
Legal Dues/Fees Arbitration and Compensation Payments	15,274,000	21,258,440	(5,984,440)
Maintenance Expenses (Motor Vehicles, Machinery, Office Furniture and Equipment)	2,835,102	2,702,419	132,683
Purchase of Household and Institutional Furniture and Fittings	798,500	1,199,540	(401,040)

Management did not provide an explanation or reconciliation for the variances.

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Under the circumstances, the accuracy of the financial statements for the year ended 30 June, 2020 could not be confirmed.

400. Unsupported Expenditure – Use of Goods and Services

The statement of receipts and payments reflects an expenditure of Kshs.330,240,966 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.50,650,456 in respect of other operating expenses. The latter balance includes an amount of Kshs.1,620,000 paid to Siaya County Administration Police Welfare for police security services offered to the County Assembly. However, the payment was irregular as it ought to have been paid to the Ministry of Interior and Coordination of National Government as Appropriation-In- Aid (AIA) for hire of security services fees. Further, no official receipts were provided acknowledging the payment.

Further, included in the expenditure of Kshs.330,240,966 under use of goods and services is an amount of Kshs.5,402,432 in respect of foreign travel and subsistence which further includes an amount of Kshs.240,503 paid on 9 January, 2020 to a Member of County Assembly (MCA) while in Kampala Uganda for East Africa Legislative Sport Council Association (EALASCA) games. However, the Member of the County Assembly did not provide the necessary accountable documents such as stamped copy of passport, speaker's travel authority, motor vehicle work tickets among others.

In the circumstances, accuracy and propriety of the expenditure of Kshs.1,620,000 for the year ended 30 June, 2020 could not be confirmed.

401. Irregular and Unsupported Expenditure - Domestic Travels and Subsistence Allowances

Included in the expenditure of Kshs.330,240,966 under use of goods and services is an amount of Kshs.109,816,336 relating to domestic travel and subsistence allowances. The latter balance includes an amount of Kshs.336,000 paid as per diems to some MCAs and staff said to be outside their work stations. However, no evidence was provided to show that the officers travelled for an oversight function in Kisumu between 27 and 29 April, 2020.

In the circumstances, the accuracy, validity and regularity of the expenditure of Kshs.336,000 for the year ended 30 June, 2020 could not be confirmed.

402. Summary of Fixed Asset Register

Annexure 4 on summary of fixed asset register reflects assets totalling Kshs.416,212,915 as at 30 June, 2020. The County Assembly has disclosed that one of its motor vehicle was involved in an accident and was completely burnt down. However, the County Assembly reported the cost based on the historical value of Kshs.6,330,000 instead of the compensation claims or salvage value of Kshs.5,565,000 therefore overstating the value of the motor vehicle by an amount of Kshs.765,000 as at 30 June, 2020.

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Under the circumstances, the accuracy of the total asset balance of Kshs.2,115,814,615 as at 30 June, 2020 could not be confirmed.

Other Matter

403. Budgetary Control and Performance

The statement of comparison of budget and actual amount - recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.1,334,949,639 and Kshs.858,267,464 respectively resulting to an under-funding of Kshs.476,682,175 or 36% of the budget. Similarly, the County Assembly spent Kshs.858,100,878 against an approved budget of Kshs.1,334,949,639 resulting to an under-expenditure of Kshs.476,848,761 or 36% of the budget. The underfunding and underperformance affected the planned activities and projects which may have impacted negatively on service delivery to the residents of Siaya County.

404. Pending Bills

As disclosed in Note 7.10 (1) and Annex 1 to the financial statements, the County Assembly had pending bills of Kshs.38,904,465 which were outstanding as at 30 June, 2020. Management had not provided an explanation for non-payment of the pending bills. Failure to settle the bills will have a negative impact on the subsequent year's budget allocation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

405. Irregular Payment of Subscription to County Assembly Forum (CAF)

The statement of receipts and payments reflects an expenditure of Kshs.330,240,966 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.50,650,456 in respect of other operating expenses. The latter balance includes an amount of Kshs.5,000,000 paid to the County Assembly Forum (CAF). However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments.

This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution 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.

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406. Non-Issue of Imprest Warrants

During the year under review, an amount of Kshs.18,446,423 was issued to various staff and Members of County Assembly as domestic travel and subsistence allowances. The amount was charged directly to the travel and accommodation instead of being issued as a temporary imprests. This is contrary to Regulation 93 (3) of the Public Finance Management (County Governments) Regulations, 2015 which states that temporary imprests shall be issued in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation, and incidental expenses.

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

407. Compensation of Employees - Wage Bill

The statement of receipts and payments reflects an expenditure of Kshs.305,351,305 under compensation of employees which translates to 36% of the total Assembly's receipts of Kshs.858,267,464 in the year under review. This is contrary to Section 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that the County Government expenditure on wages and benefits for public officers should not exceed 35% of the County Government total revenue.

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

408. Staff Ethnic Composition

A review of personnel records indicated that out of the eighty-five (85) employees of County Assembly, seventy-four (74) or 87% were from the dominant ethnical community of Siaya County. This is 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 one ethnic community.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

409. Audit and ICT Committees

Although the County Assembly has constituted both the Audit Committee and ICT Steering Committee as required, the following weaknesses were noted:

i. The Audit Committee did not have a documented risk management policy and a risk profile that identifies potential threats to the County Assembly and defines strategy to eliminate or minimize the impact of these risks. Further, the Accounting Officer did not provide periodic updates of the Audit Committee activities through the Assembly website as stipulated under Paragraph 4.7.1. (iv) of Gazette Notice No.2690 (Vol CXVIII—No. 40 dated 15 April, 2016 on providing periodic updates of Audit committee activities through the website.

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ii. Further, the County Assembly website link for the strategic plan was not functioning in line with the requirement of the Information, Communication and Technology Authority (ICTA) Kenya standard that defines the process that ensures the effective and efficient use of Information Technology (IT) to enable government institutions to achieve its goals.

iii. No evidence was provided to confirm that the Audit Committee reviewed the financial statement before being submitted for audit purpose which would assist the Assembly to minimize some of the inherent risks that have been exhibited in the financial statement.

In the circumstances, the effectiveness of the County Assembly internal control and risk management during the year ended 30 June, 2020 could not be confirmed.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

410. Inaccuracies in the Financial Statements

As disclosed in Note 2 to the financial statements, the statements of receipts and payments reflects a balance of Kshs.287,555,780 in respect of compensation of employees which includes personal allowances paid as part of salary amounting to Kshs.119,496,096. However, the Integrated Financial Management Information System (IFMIS) report reflects an amount of Kshs.77,040,344 as County Assembly attendance allowances, while the Integrated Personnel and Payroll Database (IPPD) payroll indicates an amount of Kshs.53,147,140 as sitting allowances to the Members of the County Assembly (MCAs). The three sets of records have not been reconciled.

In the circumstances, the accuracy and completeness of personal allowances of Kshs.119,496,096 for the year ended 30 June, 2020 could not be confirmed.

411. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 13 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.351,161,392 in respect of use of goods and services. However, review of the expenditure under the various components revealed the following unsatisfactory matters: -

i. The balance includes routine maintenance-vehicle and other transport equipment balance of Kshs.5,060,000 out of which the Management paid a service provider an extra Kshs.222,604 in respect of repair and maintenance for a vehicle. However, supporting documents were not provided for audit review.

ii. Management paid foreign traveling allowance balance of Kshs.239,025 to a Member of County Assembly while on a study tour on leadership and governance in Addis Ababa – Ethiopia from 11 – 16 December, 2019. However, records provided showed that the MCA was in Ethiopia for only two (2) days whose allowances was Kshs.89,610 resulting to unsupported overpayment of Kshs.149,415.

iii. The balance includes other operating expenses balance of Kshs.71,119,549 which includes an amount of Kshs.10,160,783 paid as legal fees. However, Management did not provide supporting documents balance such as procurement process records and the contract.

iv. Included in the balance of rentals of produced assets of Kshs.24,667,958 is an amount of Kshs.5,450,885 paid to a company for rent and other charges for lease of offices. However, Management did not provide procurement documents such as tender committee minutes, advertisements, letter of acceptance of offer and needs assessment report for audit review.

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v. Management paid an amount of Kshs.810,000 for a three (3) days Conference. However, review of the supporting invoice and the bank details, revealed that the payee was different from the firm which provided the services. Management did not provide explanation for the inconsistency.

In the circumstances, the accuracy and propriety of the expenditure amounting to Kshs.351,161,392 under use of goods and services for the year ended 30 June, 2020 could not be confirmed.

Other Matter

412. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development combined reflects total expenditure budget of Kshs.716,921,494 against actual expenditure of Kshs.707,837,365 resulting to under absorption of Kshs.9,084,129. However, although the County Assembly registered an overall 99% budget absorption, under development vote, only Kshs.12,202,560 was spent against an approved budget of Kshs.20,000,000, resulting to an under expenditure of Kshs.7,797,440 or 39%. Management did not provide any reason for the under expenditure.

The underperformance in the development budget affected the acquisition of assets and impacted negatively on service delivery to the public.

413. Pending Accounts Payables

Annexures 1, 2 and 3 under other disclosures in the financial statements reflects accounts payables (pending bills) amounting to Kshs.61,160,148 which includes non-interest debts of Kshs.44,872,631 borrowed from County Assembly of Kisumu Car Loan and Mortgage but had not been settled during the year under review but were carried forward to 2020/2021.

Failure to settle the bills during the year to which they relate affects the provisions of services for the subsequent year to which they have to be charged.

414. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Reference No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

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Basis for Conclusion

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

During the year under review, the total number of employees of County Assembly was eighty-nine (89) out of whom eighty (80) or 97 % were members of the dominant community in the County. This is 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.

416. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015 on Fiscal Responsibility - Wage Bill

The statements of receipts and payments reflects an expenditure of Kshs.287,555,780 on compensation of employees representing 49% of the total receipts of Kshs.709,070,900. This is contrary to the provisions of Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Executive`s expenditure on wages and benefits to not more than 35% of the total revenue for the year.

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

417. Compliance with the Human Resource Policies and Procedures

As disclosed in Note 13 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.351,161,392 in respect of use of goods and services. The balance includes hospitality supplies and services of Kshs.27,434,484 which further includes an amount of Kshs.1,156,848 that was paid as meal allowances to officers who worked beyond official hours. However, it was observed that the officers were working within their duty stations yet they were paid accommodation allowance (per diem allowance) alongside the meal allowances. This is contrary to Section C.17(1) of Human Resource Policies and Procedures manual for the Public Service, 2016 which states that; meal allowance will only be paid to officers travelling on duty within the country but who are not required to spend a night away from the permanent duty station and that meal allowance will not be paid alongside accommodation allowance.

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

418. Compliance with the Public Procurement and Asset Disposal Act, 2015

The Management floated three (3) quotations on 21 April, 2020 to three (3) firms for a comprehensive insurance cover for three (3) motor vehicles. The lowest evaluated

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bidder quoted an amount of Kshs.211,342 premiums per month. However, the Management awarded the tender to the highest bidder who quoted Kshs.215,360 without justification contrary to Section 82(1) of the Public Procurement and Disposal Act, 2015 which stipulated that the successful tenderer shall be the lowest evaluated bidder.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

419. Incomplete Fixed Assets Register

Annex 4 - summary of fixed assets register in the notes to the financial statements reflects a value of Kshs.94,166,418 on fixed asset as at 30 June, 2020. However, the balances could not be confirmed as Management had not updated the assets register and had also omitted the values of the assets and their dates of acquisition. Further, various assets both at the County Assembly and in the Ward offices were not coded for ease of verification.

In the circumstances, the Management lack effective internal controls to safeguard the fixed assets.

420. Weak Internal Control on Payroll Management

Review of Human resource data indicated that Management was processing both salaries and deductions directly through the bank and not through the salary control account. This is contrary to section 6.3 of the County Financial Accounting and Reporting Manual which defines the basic procedures to be followed while preparing, recording and accounting for personnel expenditure from the monthly payroll preparation through IPPD to documents filing and archiving. This is aimed at providing accurate and reliable data in the management of personnel records and references.

In the circumstances, Management has not instituted internal control mechanism to ensure accurate and credible payroll data but relies on a third-party system with little or no control.

421. Lack of Implementation of a Strategic Plan

The County Assembly had a Strategic Plan running from 2013-2017 which had identified risk factors and mitigation measures such as lack of adequate resources to meet the funding requirements, staff capacity and low public participation among others. However, the Management did not implement the strategic plan. Further, it was noted that the County Assembly did not formulate a new strategic plan even after the expiry of the 2013-2017 Strategic Plan.

In the circumstances, it has not been possible to determine the existence of an effective governance intervention to facilitate achieving the strategic objectives.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

422. Presentation of the Financial Statements

Contrary to the reporting requirements set by the Public Sector Accounting Standards Board (PASB), the financial statements do not include a report on progress made in following up on auditor's recommendations relating to the audit report for the previous year.

Further, the financial statements do not include annexures showing analyses of pending bills including staff payables, other pending payables and an analysis of outstanding imprests as at 30 June, 2020.

In view of these issues, the financial statements do not provide all the disclosures on the County Assembly's operations required in the reporting framework set by the PSASB.

423. Unsupported Cash and Cash Equivalents Balance

The statement of financial position as at 30 June, 2020 reflects bank balances totalling to Kshs.1,652,544, as further disclosed in Note 8 to the financial statements. However, examination of records on the balance revealed that the cash and cash equivalents balance totalling to Kshs.1,652,544 is comprised a balance of Kshs.260,177 and Kshs.1,391,081 held at the Central Bank of Kenya and Kshs.1,286 held in a commercial bank. However, the cash book for the commercial bank account reflected an overdraft balance of Kshs.776,962 resulting to an unexplained variance of Kshs.775,676 between the two sets of records. Further, one commercial bank account reflected a Nil bank balance whereas the respective cash book reflected an overdraft balance of Kshs.20,232,274 in respect to the account.

Further, bank reconciliation statements and cash books for the recurrent and development bank accounts held at the Central Bank of Kenya (CBK) with a balance of Kshs.260,177 and Kshs.1,391,081 respectively, were not provided for audit review. As a result, the accuracy and completeness of the balances could not be confirmed.

In addition, the cash and cash equivalents balance of Kshs.1,652,544 as at 30 June, 2020 excludes unreversed stale cheques totalling to Kshs.232,274 and Kshs.777,990 in two commercial bank accounts and is, therefore understated by Kshs.1,010,264.

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

424. Unsupported Compensation of Employees

Included in the compensation of employees balance totalling Kshs.422,231,440 are payments totalling Kshs.353,113,606 made through the electronic Integrated Personnel Payments Database (IPPD) and Kshs.69,117,834 made through a manual

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system. The latter payments were indicated as having been made to County Assembly staff and staff employed in the Wards as well as Members of the County Assembly. However, the payments were not sufficiently analysed and as a result, their validity and accuracy could not be confirmed.

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

425. Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services payments totalling Kshs.318,097,584, as further reflected in Note 3 to the financial statements. However, the balance includes hospitality supplies and services amounting to Kshs.47,390,000 which constitutes payments totalling to Kshs.5,051,450 that were not supported with relevant documents, such as imprest surrender vouchers, and in addition, were not recorded in the ledger.

Similarly, training expenses totalling to Kshs.37,856,260 were not supported with key records including signed attendance registers, training programs and reports while records indicated that a balance of Kshs.4,900,000 was spent on printing services out of which records for payments totalling to Kshs.1,768,342 included therein were not provided for audit review.

Further, the balance includes an amount of Kshs.4,200,000 made in the first six months of the year under review between July and December, 2019 were not supported with fuel registers, suppliers' statements and work tickets.

In view of above, the propriety and completeness of payments totalling Kshs.52,007,747 made in respect of the items cited and included in the goods and services balance totalling Kshs.318,097,584 could not be confirmed.

426. Unsupported Other Payments

The statement of receipts and payments reflects other payments totalling to Kshs.74,261,619 as further disclosed in Note 7 to the financial statements.

However, records examined indicated that a balance of Kshs.60,960,000 was spent on operational expenses for Ward Offices. However, supporting documents such as approvals for the expenditure, lease agreements and valuation reports were not provided for audit review.

Further, the balance includes Board expenses totalling to Kshs.921,300 but payment vouchers on the item reflected payments amounting to Kshs.2,542,900 resulting to an unexplained variance of Kshs.1,621,600.

As a result, the propriety and accuracy of the expenditure totalling Kshs.61,881,300 reported to have been incurred on Board expenses could not be confirmed.

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427. Irregular Fuel Expenditure

Fuel consumption records issued by the firm contracted to supply fuel, oil and lubricants to the County Assembly indicated that the fuel card for a vehicle which drew fuel valued at Kshs.126,873. However, records maintained on the vehicle indicated that it was not used in the year under review. No explanation was provided by Management for the anomaly.

In the circumstances, the propriety and regularity of the payments totalling Kshs.126,873 could not be confirmed.

428. Unconfirmed Acquisition of Fixed Assets

Annex 2 to the financial statements reflects a summary of fixed assets register that is incorrectly titled as relating to the 2018/2019 financial year instead of the year under review. The summary reflects closing assets with historical costs totalling Kshs.55,234,795. However, the audit indicated that contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015), Management did not maintain a fixed asset register.

As result, the valuation, existence and ownership of the assets reflected in the summary could not be confirmed.

429. Ownership of Motor Vehicle Insurance

During the year under review, review of expenditure records indicated that Kshs.32,500,000 was spent on insurance costs. The expenditure included a balance of Kshs.670,398 paid for five motor vehicles insurance cover ostensibly owned by the County Executive and not the County Assembly. There was no valuation report to determine the basis upon which the premium for each vehicle was paid while the logbooks for the five vehicles were not provided for audit review therefore, their ownership by the County Assembly could not be confirmed.

As a result, the propriety and accuracy of the expenditure totalling Kshs.670,398 reported to have been incurred on Board expenses could not be confirmed.

430. Unsupported Pending Bills

Note 1 of other disclosures reflects unpaid bills totalling Kshs.100,588,153 as at 30 June, 2020. However, the balance was not supported by source documents and schedules namely invoices, inspection and acceptance reports, delivery notes and ledger entries. Further, no satisfactory explanation was provided by Management for non-payment of bills totalling Kshs.8,676,479 that were more than four (4) years old.

In the circumstances, the accuracy and completeness of the pending bills balance totalling Kshs.100,588,153 as at 30 June, 2020 could not be confirmed.

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Other Matter

431. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development for the year under review reflects an approved receipt budget totalling Kshs.1,054,516,376 and actual receipts totalling Kshs.907,727,846 resulting to a shortfall of Kshs.146,788,530 equivalent to 14% of the budget. Similarly, the County Assembly registered an expenditure budget of Kshs.1,054,516,376 and actual expenditure totalling Kshs.906,665,491 resulting to a deficit of Kshs.147,850,885 or 14%.

The underperformance may have curtailed the ability of the County Assembly to strengthen its oversight and legislative roles in the County.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

432. Delay in Completion of Automated Gate

During the year under review, expenditure records indicated that Kshs.4,267,910 was in paid to a contractor to install an automated gate at the County Assembly under a contract price of Kshs.7,112,260. The contract agreement dated 21 May, 2020 had provided for completion of the Project in one month. However, the project had not been completed at the time of the audit in October, 2020. There were no records indicating that the contract had been extended upon expiry in June, 2020. Further, the contractor was not on site and there were no records on the level of the project's completion.

In the circumstances value for money may not be realised due to the delay.

433. Non-Compliance with the National Cohesion and Integration Act, 2008 - Ethnic Diversity

Review of the of personnel records indicated that the County Assembly's staff establishment was seventy-six (76) employees out of whom 72 or 95% were members of the dominant community in the County. This was contrary to Section 7 of the National Cohesion and Integration Act No.12 of 2008 which requires all public entities to seek to represent the diversity of the people of Kenya in employment of staff and not more than 30% of all employees should be from one community.

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

434. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015 - High Wage Bill

Expenditure records indicated that Kshs.422,231,440 was spent on compensation of employees. The spending was equivalent to 47% of the County Assembly's revenue receipts totalling Kshs.907,727,846 in the year under review.

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This was contrary to Section 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which prescribes that County Government expenditure on wages and benefits for public officers should not exceed 35% of the County Government's total revenue.

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

435. Failure to Reserve Procurement Opportunities

The financial statements for the year under review indicated that the County Assembly incurred expenditure totalling Kshs.51,074,848 on acquisition of assets and Kshs.422,231,440 on supply of goods and services. However, there were no records indicating that at least 30% of the value of supplies on procurement of goods and services were awarded to small and micro enterprises owned by youth, women and persons with disabilities contrary to Legal Notice No.114 of 18 June, 2013.

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

436. Non-Adherence the Employment Act, 2007 - One Third Pay Rule

Examination of payroll data indicated that twenty-five (25) of the County Assembly staff members earned salaries that were less than one third of their respective basic salaries contrary to the provisions of Section 19(3) of the Employment Act, 2007. The Section prohibits an employer from making deductions that exceed two-thirds of the wages of their employees.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

437. Lack of Risk Management Policy

Audit review of the County Assembly's operational systems indicated that Management had not established a risk management policy as well as develop risk management strategies that include fraud prevention mechanisms. The County Assembly lacked objective means for identifying, measuring and mitigating operational and other risks.

In the circumstances, the security and reliability of the project data including the Management Information Systems could not be confirmed.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

438. Unreconciled Transfers from County Treasury Balance

As disclosed in Note 1, 2 and 3 to the financial statements, the County Assembly received Kshs.836,834,226, 62,094,147 and Kshs.59,132,610 being recurrent, development and other receipts, respectively all amounting to Kshs.958,060,983 as Transfers from County Treasury. However, the financial statements of the County Executive of Migori reflects a consolidated balance of Kshs.1,036,886,081 as transfers to the County Assembly of Migori resulting to an unreconciled and unexplained variance of Kshs.78,825,098.

In the circumstances, the accuracy and completeness of receipts amounting to Kshs.958,060,983 for the year ended 30 June, 2020 could not be confirmed.

439. Payments Made Outside the IPPD Payroll

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.415,174,805 under compensation of employees which includes an amount of Kshs.408,707,421 in respect of basic salaries for permanent employees and temporary employee wages. The payment constitutes a balance of Kshs.145,810,238 which was paid manually to MCAs and ward staff outside the Integrated Personnel Payroll Database System, IPPD. However, Management did not provide schedules sent to the banks on the two payrolls indicating the names and amounts of the payees. Management did not also give any assurance on the system which is prone to human error or reasons why payment was not made through the existing IPPD platform.

Further, the balance includes an amount of Kshs.20,140,275 paid as wages to one hundred and twenty (120) ward employees engaged in the forty (40) wards. Review of the personnel records maintained by the Human Resources Department revealed that no advertisement for ward office staff was made and therefore the requirements and competencies for the various posts could be confirmed.

In addition, records relating to recruitment process such as applications, shortlisting of candidates, interviews conducted and selection of successful candidates were not provided for audit review.

In the circumstances, the accuracy and propriety of the expenditure amounting to Kshs.415,174,805 for the year ended 30 June, 2020 could not be confirmed.

440. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.520,470,341 in respect of use of goods and services. However, examination of records revealed that payments amounting to Kshs.63,127,020 were not supported with schedules and payment vouchers.

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In the circumstances, the accuracy and validity of the expenditure amounting to Kshs.63,127,020 for the year ended 30 June, 2020 could not be confirmed.

441. Irregular Payments on Rentals of Produced Assets

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.520,470,341 under use of goods and services which includes a balance of Kshs.82,687,500 in respect to rentals of produced assets paid as ward operation expenses. However, Management did not provide expenditure returns and justification for the payments for the rental of offices despite the County Assembly having previously completed its ward offices.

In the circumstances, the propriety of expenditure of Kshs.82,687,500 incurred on rental of produced assets for the year ended 30 June, 2020 could not be ascertained.

442. Unsupported Payments on Acquisition of Assets

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.62,094,147 in respect of acquisition of assets which includes Kshs.29,550,390 for construction of buildings. The balance constitutes an amount of Kshs.13,400,300 paid for the construction of the Speaker's residence. However, Management did not provide supporting documents on the procurement process such as advertisements, evaluation minutes, Bills of Quantities and contract agreements for audit review. Further, Management did also not provide certificates of work done, inspection and acceptance to support the payments.

Physical verification of the project revealed that the contractor had only done the first slab and was not on site.
In the circumstances, the propriety and value for money of Kshs.13,400,300 spent on the project for the year ended 30 June, 2020 could not be ascertained.

Emphasis of Matter

443. Unsupported Pending Bills

Annex 1 of the financial statements reflects pending bills amounting to Kshs.121,478,922 which were outstanding as at 30 June, 2020. However, the balance was not supported with authentic and verifiable source documents such as invoices, inspection and acceptance reports, delivery notes and ledger. It has not been possible to confirm the existence and obligation on the amounts.

Failure to settle bills in the year for which they relate will adversely affect the implementation of the subsequent year's budgeted programs as the pending bills form a first charge to that year's budget provision.

My opinion is however not modified in respect of the above matter.

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Other Matter

444. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.898,928,373 and Kshs.958,060,983 respectively resulting to an over-funding of Kshs.59,132,610 or 6.6% above the budget. Similarly, the County Assembly expended an amount of Kshs.1,002,149,560 against an approved budget of Kshs.898,928,373 resulting to an over-expenditure of Kshs.103,221,188 or 11% of the budget. The over expenditure mostly occurred under use of goods and services and finance costs which overspent by Kshs.112,107,471 and Kshs.2,255,707, respectively.

445. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

446. Idle Resources - Acquisition of Assets

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.62,094,147 in respect of acquisition of assets which includes an amount of Kshs.29,550,390 for construction of buildings. The balance of Kshs.29,550,390 constitutes payments amounting to Kshs.13,940,732 paid to two (2) contractors for construction of two (2) offices for members of the County Assembly. However, physical verification revealed that the offices have been complete but have not been occupied.

Further, the balance of Kshs.62,094,147 constitutes an amount of Kshs.20,429,917 for purchase of ICT equipment, software and other ICT assets out of which an amount of Kshs.14,000,000 was made to a contractor for the supply and installation of digital congress and communication system to the County Assembly. However, physical verification revealed that equipment were still lying idle in the store and had not been put to the intended purpose.

In the circumstances, the County Assembly and the public have not realized value for money on the Kshs.27,940,732 spent under acquisition of assets.

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447. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees in the County Assembly was seventy (70) out of which fifty-five (55) or 78 % were members from the dominant community in the county. This is 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 circumstance, Management was in breach of the Law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

448. Updated Fixed Assets Registers

Annex 4 - Summary statement of fixed assets to the financial statements reflects a balance of Kshs.378,319,845 in respect of historical cost of assets as at 30 June, 2020. However, fixed asset register maintained by the County Assembly was not up-dated and did not include the values, acquisition dates and historical costs of the fixed assets

In the circumstances, it has not been possible to determine whether the County Assembly has instituted proper mechanism to safeguard the assets.

449. Lack of Risk Management Policy and Report

During the year under review, the County Assembly did not have a risk management policy and there was no documented formal risk assessment to give reasonable assurance through the audit committees on the state of risk management, control and governance within the organization.

In the circumstances, it could not be established how risks were identified, monitored and controlled to ensure correction/mitigation measures were implemented.

450. Lack of an Approved Staff Establishment

The County Assembly does not have an approved staff establishment to indicate the authorized staffing levels in position for each category of employee and or any variance thereof. Further, no evidence was provided to indicate that the County Assembly had carried out job evaluation to determine the staff requirements for each category contrary to 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, it has not been possible to ascertained whether the County Assembly had engaged the optimal numbers of employees for all categories.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

451. Unsupported Expenditure on Use of Goods and Services

451.1 Foreign Travels to Uganda

The statement of receipts and payment reflects an expenditure of Kshs.281,715,655 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.19,342,495 relating to foreign travel and subsistence allowances. The latter balance includes an amount of Kshs.8,524,000 paid to Members of County Assembly from various committees attending trainings and benchmarking courses in Uganda between the months of November, 2019 and March, 2020. However, the training needs assessment, back to office reports, passports, boarding passes, training programme and evidence of payment to the training institutions were not provided for audit review.

451.2 Training Expenses

Further, the expenditure includes an amount of Kshs.16,799,347 in respect of training expenses, out of which payments amounting to Kshs.4,384,000 was paid to a consultant for training services for different committees in Kampala, Uganda. However, supporting documents including visas, passports, boarding passes and certificates for the participants as proof of travel and attendance were not provided for audit review.

451.3 Ward Offices Operation Expenses

In addition, the expenditure includes an amount of Kshs.57,868,000 relating to other operating expenses. The latter balance includes an amount of Kshs.49,410,000 incurred on operation expenses by forty-five (45) wards. However, the Management did not provide lease agreements for the Ward Offices to support the lease payments.

In the circumstances, the accuracy and propriety of expenditure amounting to Kshs.62,776,000 could not be confirmed.

452. Unsupported Transfers to Government Entities

The statement of receipts and payments reflects an expenditure of Kshs.552,145 under transfers to Government entities which, as disclosed in Note 7 to the financial statements, related to refunds of the unutilized funds for 2018/2019 financial year transferred to the County Revenue Fund (CRF) account. However, supporting documents including payment vouchers were not provided for audit review.

In the circumstances, the accuracy, propriety, and completeness of transfers to Government entity of Kshs.552,145 could not be ascertained.

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Other Matter

453. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for recurrent and development combined for the year under review reflects an approved receipt budget of Kshs.1,110,505,387 and actual receipts of Kshs.889,281,590 resulting in a budget shortfall of Kshs.221,223,797 or 20%. Similarly, the statement reflects an expenditure budget of Kshs.1,110,505,387 compared to an actual expenditure of Kshs.889,788,575 resulting in a net under-expenditure balance of Kshs.220,716,812 or 20%.

The underfunding and underperformance constrained execution of planned activities and delivery of services to the public.

454. Pending Bills

Annex 1 of the financial statements reflects pending bills of Kshs.120,362,877 which were outstanding as at 30 June, 2020. Management had not provided an explanation for non-payment of the pending bills. Failure to settle the bills will have a negative impact on the subsequent year's budget allocation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis of Conclusion

455. Extension of Library and ICT Innovation Centre

The statement of receipts and payment reflects an expenditure of Kshs.125,515,690 under acquisition of assets which, as disclosed in Note 10 to the financial statements, includes an amount of Kshs.96,672,350 in respect of construction of buildings incurred on extension of Library and ICT innovation Centre to host Members of County Assembly Offices. Available information indicates that a tender was awarded to a contractor on 8 January, 2019 for the construction of a library and ICT innovation centre, at a contract sum of Kshs.195,000,000 for a period of thirty (30) months ending June, 2021. Physical verification on 25 November, 2020 revealed that, the superstructure had been done up to fourth floor and the contractor had been paid a total of Kshs.100,236,598. However, the contractor was not on site and the project is behind schedule as of June, 2021 as provided in the contract.

Under the circumstances, the project may not be completed on time and value for money may not be realized.

456. Non-Compliance with the Public Finance Management (County Governments) Regulations, 2015 - Fiscal Discipline on Wage Bill

The statement of receipts and payment reflects an expenditure of Kshs.482,005,086 under compensation of employees which translates to 46% of the total Assembly's receipts of Kshs.889,281,590 in the year under review. This is contrary to Section 25(1)(b) of the Public Finance Management (County Governments) Regulations,

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2015, which states that the County Government expenditure on wages and benefits for public officers should not exceed 35% of the County Government total revenue.

The Management was therefore, in breach of the law.

457. Staff Ethnic Composition

Review of personnel records indicated that the County Assembly had a staff composition of three hundred and forty-eight (348) out of which three hundred and thirty-nine (339) or 97% of the employees were from the dominant local community in the County. This is 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 one ethnic community.

Management was in breach of the law, to this extent.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

458. Risk Management Policy

A review of the internal controls revealed that the County Assembly does not have in place a Risk Management Policy Framework to ensure that all operations are performed within the approved risk tolerance levels. Further, there was no documented Disaster Recovery Plan to deal with loss of data or information in case of systems failures to protect the IT infrastructure in the event of a disaster.

Under the circumstances, the County Assembly may be exposed to risk of loss of critical information in an event of a disaster.

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REPORT ON THE FINANCIAL STATEMENTS

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

Other Matter

460. Pending Bills

Note 7.10(1) - Other disclosures to the financial statements reflects pending account payables totalling to Kshs.20,899,580 as at 30 June, 2020. Failure to settle bills during the year in which they occur distorts the financial statements for that year and adversely affects provisions for the subsequent year to which the bills have to be charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

461. Execution of Contracts

461.1 Construction of Office Building

During the year under review, Management paid an amount of Kshs.33,207,798 to a contractor hired to build a six-floor office building for Members of the County Assembly and staff. The contract valued at Kshs.367,000,000 was to be executed in one hundred fifty-six (156) weeks, or three (3) years from 13 June, 2018 to 13 June, 2021. The work schedule had indicated that the contractor would be building the fifth floor by December, 2020. However, inspection carried out during the course of the audit indicated that construction works had only been done up to the second floor. Further, the contractor was not on site and no satisfactory explanation was provided by Management for his absence.

461.2 Car Park and Related Works

Further, a sum of Kshs.5,003,148 was paid to a contractor hired to build a car park, perimeter fence, access road, gate and gate-house under a contract valued at Kshs.27,625,516. The contract agreement was signed on 24 June, 2016 and was to be executed in six months up to 24 December, 2016. However, by December, 2020, four years after the end of the contract period, substantial works on the perimeter fence were yet to be done. No adequate explanation was provided by Management for the delayed execution of the project.

In view of the above, the offices may take longer than expected to be completed and will therefore delay optimal service delivery and value for money expected of the Project.

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462. Non-Compliance with Employment Act, 2007 - Third Rule Salary Deductions

Examination of payroll records indicated that salaries paid to eight (8) employees were below one-third of their respective net salaries. Salary deductions were therefore made contrary to Section 19(3) of the Employment Act, 2007 which prohibits deductions in excess of two-thirds of an employee's net salary. No explanation was provided by Management for allowing the deductions that placed the officers at the risk or pecuniary embarrassment.

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

463. Irregular Extension of Acting Appointment

Review of Personnel records indicated that the current Clerk to the County Assembly was appointed on 3 April, 2018 in an acting capacity. At the time of the audit in December, 2020, the Clerk had been acting for thirty-three (33) months contrary to Section C.14(1) of Public Service Commission Human Resource Policies and Procedures Manual, 2016 which prescribes six months as the longest period that a public servant may act in any position.

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

464. Appointment of Unqualified Staff

Examination of the staff records indicated that four (4) officers namely, Director of Internal Audit, Director Legal Research, Director Human Resources and Director Library Services, did not meet the minimum professional requirements for their respective positions as set out in the County Assembly's Scheme of Service. Further, there was no evidence that suitability tests or interviews were carried out to assess whether the officers had the skills and competencies required to serve in their respective positions.

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

465. Non-Compliance with Approved Staff Establishment

Review of the personnel records indicated that the County Assembly's Integrated Personnel and Payroll Database (IPPD) for the month of June, 2020 and the approved staff establishment, revealed one hundred and thirty-six (136) filled posts were not in the approved staff establishment. Only one position for Chief Accountant and Senior Sergeant-at-Arms respectively was provided for in the establishment. However, at the time of the audit, each of the two posts had three (3) officers in position and therefore the additional four positions were not authorized.

In the circumstances, the legality of the positions was doubtful and further, the personal emoluments and other expenses spent on the respective staff were irregular.

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466. Irregular Employment of Ward Staff

Examination of personnel records further revealed that each of the twenty (20) elected Members of the County Assembly (MCAs) recruited and appointed four (4) employees to serve in the Wards. However, Circular Ref CRA/CSO/CGM/18/Vol. 8/ (1) of 11 May, 2015 issued by the Commission for Revenue Allocation had authorized appointment of only three (3) employees for each Ward.

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

467. Non-Compliance with the National Cohesion and Integration Act, 2008 - Ethnic Diversity

During the year under review, examination of personnel records indicated that the County Assembly had two hundred and twenty-three (223) employees out of whom two hundred and twenty-two (222) or 99.9% were members of the local community dominant in the County. This was contrary to Section 7 of the National Cohesion and Integration Act, 2008 which requires all public entities to seek to represent the diversity of the people of Kenya in employment of staff and not more than 30% of all employees should be from one community.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

468. Lack of Approved Internal Audit Charter and Plan

Review of records on the Internal Audit Unit indicated that during the year under review, the Unit operated without an approved annual activity plan, Internal Audit Charter and approved budget. Further, the appointment of the Head of the Unit done during the year was not approved by the Audit Committee.

In view of these constraints, the Unit was not properly set up and facilitated and therefore, could not carry its the roles and responsibilities in an effective way.

469. Delay in Appointment of Audit Committee

During the year under review, the Accounting Officer appointed a new Audit Committee after the term of the previous one expired. However, the new Committee was inducted eleven months after it was appointed and only assumed office in December, 2019. The committee was Gazetted in September, 2020.

Further, personal records on the appointees were not provided for audit review and therefore, the qualifications and suitability could not be confirmed.

In view of these omissions, oversight and governance in the County Assembly may not have been properly established during the year under review.

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REPORT ON THE FINANCIAL STATEMENTS

Basis for Adverse Opinion

470. Presentation of Financial Statements

Review of the financial statements revealed that the presentation of the financial statements contained errors and omission against the prescribed Public Sector Accounting Standards (PSASB) template.

In view of these issues, the financial statements do not conform to IPSAS and the presentation format prescribed by the Public Sector Accounting Standard Board (PSASB).

471. Reconciliation of Compensation of Employees

The statement of receipts and payments reflects payments on compensation of employees totalling to Kshs.623,426,791 which is at variance with the balance of Kshs.684,054,221 reflected in Note 4 to the financial statements resulting to a variance of Kshs.60,627,430 which was not explained.

Further the balance includes personal allowances totalling to Kshs.226,709,669 paid as part of salary. However, examination of records on the payments indicated that an amount of Kshs.75,761,400 was paid as sitting allowances to Members of the County Assembly (MCAs). However, attendance reports, including biometric data on the MCAs, and the dates the respective Committee meetings were held, were not provided for audit review.

As a result, the propriety of payments totalling to Kshs.75,761,400 could not be confirmed.

472. Unsupported Use of Goods and Services

The statement of receipts and payments reflects payments on use of goods and services totalling to Kshs.470,626,447, as further reflected in Note 4 to the financial statements. However, examination of records on the expenditure revealed that payments for various items totalling to Kshs.72,146,593 were not supported with relevant documents.

Further, the balance includes an amount of Kshs.44,987,494 paid to various legal firms in respect of legal fees. However, records indicating how the firms were identified and the respective service agreements signed were not provided for audit. The proceedings or outcomes of the court cases or affairs that the firms provided legal services were not provided for audit verification.

In addition, the County Assembly spent an amount of Kshs.97,802,709 on foreign travel and subsistence in the year under review. However, payment vouchers for the

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expenditure were not supported with travel documents to confirm the occurrence and validity of the expenditure.

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

473. Irregular Payments to Staff by County Executive of Nairobi

As similarly reported in the previous year, examination of expenditure documents for the year under review revealed payments totalling to Kshs.142,857,111 made to the staff of the County Assembly by Management of the County Executive of Nairobi City for undisclosed duties. The authority if any, granted for the payments was not provided for audit review and as a result, the validity and propriety of the expenditure could not be confirmed.

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

474. Unreconciled Outstanding Imprests

The statement of financial assets and liabilities reflects an amount of Kshs.128,072,586 in respect of accounts receivables – outstanding imprests whereas Note 14 to the financial statements reflects accounts receivables totalling to Kshs.129,809,586 resulting to an unreconciled variance of Kshs.1,737,000.

Further, an analysis of imprests balance showing the names of the imprest holders, issue and due dates for the imprests, amounts surrendered and balances as at 30 June, 2020 was not provided for audit verification.

In the circumstances, the accuracy and completeness of the outstanding imprests balance totalling to Kshs.128,072,586 as at 30 June, 2020 could not be confirmed.

475. Lack of an Updated Fixed Assets

Annex 4 to the financial statements reflects a summary of fixed assets register that depicts assets with historical values totalling to Kshs.21,873,599 as at 30 June, 2019. However, information on asset additions, disposals and transfers in the year under review was not disclosed. In addition, Management did not maintain an updated asset register contrary to Section 149(2) of the Public Finance Management Act, 2012.

In view of the omissions, the existence, location, and accuracy of the assets balance totalling to Kshs.21,873,599 as at 30 June, 2020 could not be confirmed.

476. Pending Bills

Note 1 of other important disclosures reflects pending accounts payables (pending bills) totalling to Kshs.8,941,436 as at 30 June, 2020 whereas Annex 1 reflects a nil balance in respect to the account resulting to an unreconciled variance of Kshs.8,941,436.

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Further, the pending bills balance was not supported by source documents and supporting schedules indicating the nature of the payables and payments made and the outstanding balance as at 30 June, 2020. Further, analyses showing the ages of the payables was not provided for audit. Delays in settling pending bills may slow down economic activity and discourage traders and other private parties from doing business with public entities.

In view of these discrepancies the accuracy and propriety of the accounts payables totalling to Kshs.8,941,436 as at 30 June, 2020 could not be confirmed.

477. Prior Year Grants

The statement of receipts and payments reflects prior year other grants and transfers totalling to Kshs.1,558,992 whereas Note 8 to the financial statements, reflects a nil balance resulting to an unreconciled variance of Kshs.1,558,992.

In the circumstances, the accuracy and fair presentation of the prior years' grant balance totalling to Kshs.1,558,992 could not be confirmed.

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

The statement of comparison of budget and actual amounts: recurrent and development combined reflects an original budget of Kshs.5,500,000 on Other Grants and Transfers, whereas the final budget reflects a nil balance resulting to an unexplained difference of Kshs.5,500,000 between the two records.

Further, the statement reflects final budgeted payments totalling to Kshs.1,473,673,965 but a recast of the balances included therein yields Kshs.1,393,462,525 resulting to an unreconciled variance of Kshs.80,211,440.

In view of these discrepancies, the accuracy of the statement of comparison of budget and actual amounts: recurrent and development could not be confirmed.

479. Prior Year Adjustment

Note 17 to the financial statements reflects prior year adjustments totalling to Kshs.118,980,141, which Management attributed to adjustments of bank account balances and receivables erroneously included in previous audited financial statements. However, the adjustments were effected against balances for the year under review contrary to International Public Sector Accounting Standard No.3. The Standard requires every material error for prior periods be corrected retrospectively in the first set of financial statements authorized for issue upon its discovery by restating the comparative amounts for the prior period in which the error occurred. The adjustment has, similarly, been made in error in the statement of cash flows.

In the circumstances, the financial statements are not fairly stated.

480. Total Payments

The statement of receipts and payments reflects payments totalling to Kshs.1,154,646,327 whereas the Integrated Financial Management System (IFMIS)

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ledger reflects payments totalling to Kshs.375,542,403 for the year under review resulting to an unexplained variance of Kshs.779,103,924.

As a result, the accuracy of the financial statements could not be confirmed.

Other Matter

481. Budgetary Control and Performance

During the year under review, the approved budget of the County Assembly of Kshs.1,473,673,965 comprised of recurrent and development estimates balance of Kshs.1,343,262,525 and Kshs.44,700,000 respectively. However, actual expenditure was Kshs.1,154,646,327 as indicated in the summary statement of appropriation recurrent and development combined. This was, equivalent to an absorption rate of 83%.
Further, revenue records indicated that the County Assembly received recurrent vote exchequer releases for the year under review totalling to Kshs.311,831,896 between the months of June, 2020 and July, 2020.

Delay in receipt of the exchequer releases may, to a large extent, explain the expenditure shortfall recorded in the year under review.

The under absorption of Kshs.238,816,198 or 17% of the budget may have constrained delivery of the legislative and oversight mandate of the County Assembly.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

482. Non - Compliance the Public Finance Management (County Governments) Regulations, 2015

The statement of receipts and payments reflects expenditure totalling Kshs.623,426,791 on compensation of employees, which is 48% of the County Assembly`s total revenue amounting to Kshs.1,303,785,480 for the year ended 30 June, 2020. The expenditure on wages and benefits therefore exceeded the thirty-five percent (35%) threshold prescribed under Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. In addition, excessive use of limited resources in payment of personnel emoluments may have constrained the capacity of the County Assembly to fund its legislative and oversight operations and development projects.

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

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483. Non - Compliance the County Assembly Human Resource Manuals and the Employment Act, 2007 – Two Third Rule Salary Deduction

In the year under review, forty (40) employees were paid net salaries that were less than a third (1/3) of their respective basic pay. Nineteen (19) of the officers were members of staff whereas twenty-one (21) were Members of County Assembly (MCAs). In allowing the excessive deductions, Management contravened provisions of the Nairobi City County Assembly Human Resource Manuals and Section 19(3) of the Employment Act, 2007 both of which prohibit employers from making deductions in excess of two thirds of their employees' wages.

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

484. Non - Compliance with the County Government Regulations, 2015

Examination of imprest records indicated that the County Assembly made payments totalling Kshs.2,963,807 to various members of staff in the year under review. The payments were for refunds of costs the staff had reportedly incurred on domestic travel and subsistence while on official duty away from the County Assembly. However, the refunds were made contrary to the provisions of Regulations 91(2) and 93(4) of the County Government Regulations, 2015 which requires such expenditures to be incurred through imprests issued to Officers beforehand.

Management was therefore in breach of the law.

485. Non – Compliance with the Intergovernmental Relations Act, 2012 - Payment to County Assembly Forum

During the year under review, Management paid contribution amounting to Kshs.5,000,000 to the County Assemblies Forum in the year under review. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institution established by the Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

486. Unapproved Risk Management Policy

Review of risk management in the County Assembly indicated that Management was yet to approve the risk management policy for the County Assembly. Management

lacked objective means to identify, measure and mitigate risks that the County Assembly may face.

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CONCLUSION

The detailed reports for the County Assemblies for the year ended 30 June, 2020, together with my opinion are contained in the respective County Assembly's audited financial statements for the year ended 30 June, 2020, which I have already submitted to the respective County Assemblies.

APPRECIATION

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. Special appreciation goes to the Report review and finalization team that prepared this Consolidated Audit Report.

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

CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

16 November, 2022

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APPENDIX A: List of County Assemblies and Audit Opinions given on the Financial Statements

1. Certificates with Unqualified Opinion

County Code	County Assembly	Opinion
26	Trans Nzoia	Unqualified
36	Bomet	Unqualified
46	Nyamira	Unqualified

2. Certificates with Qualified Opinion

County Code	County Assembly	Opinion
1	Mombasa	Qualified
2	Kwale	Qualified
3	Kilifi	Qualified
4	Tana River	Qualified
5	Lamu	Qualified
6	Taita/Taveta	Qualified
7	Garissa	Qualified
8	Wajir	Qualified
9	Mandera	Qualified
10	Marsabit	Qualified
11	Isiolo	Qualified
12	Meru	Qualified
13	Tharaka-Nithi	Qualified
14	Embu	Qualified
15	Kitui	Qualified

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County Code	County Assembly	Opinion
16	Machakos	Qualified
17	Makueni	Qualified
19	Nyeri	Qualified
20	Kirinyaga	Qualified
21	Murang'a	Qualified
22	Kiambu	Qualified
23	Turkana	Qualified
24	West Pokot	Qualified
27	Uasin Gishu	Qualified
28	Elgeyo/Marakwet	Qualified
29	Nandi	Qualified
30	Baringo	Qualified
31	Laikipia	Qualified
32	Nakuru	Qualified
33	Narok	Qualified
34	Kajiado	Qualified
35	Kericho	Qualified
37	Kakamega	Qualified
38	Vihiga	Qualified
39	Bungoma	Qualified
40	Busia	Qualified
41	Siaya	Qualified
42	Kisumu	Qualified
43	Homa Bay	Qualified

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County Code	County Assembly	Opinion
44	Migori	Qualified
45	Kisii	Qualified

3. Certificates with Adverse Opinion

County Code	County Assembly	Opinion
18	Nyandarua	Adverse
25	Samburu	Adverse
47	Nairobi city	Adverse

4. Certificates with a Disclaimer of Opinion

None

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