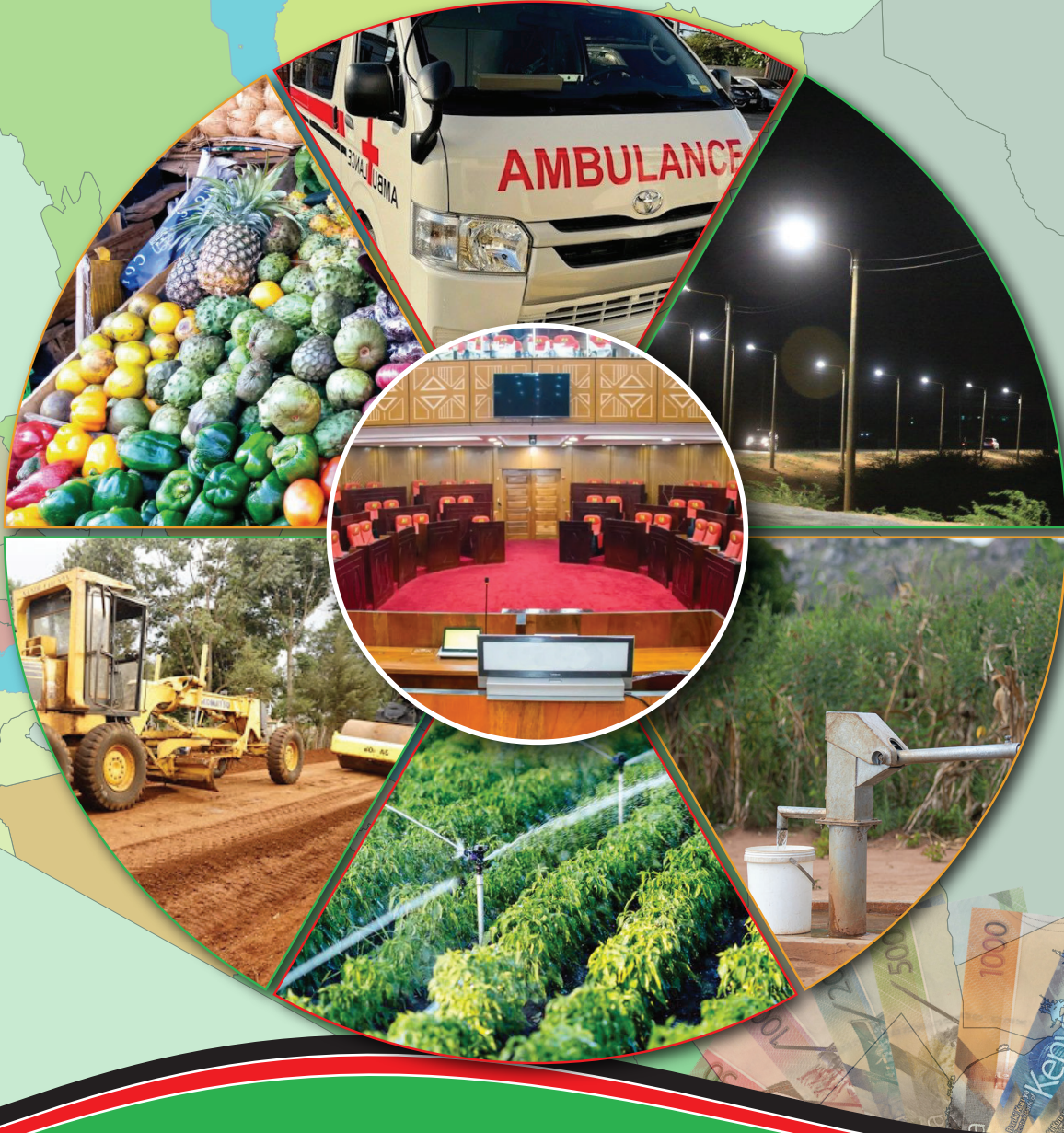


COUNTY EXECUTIVES



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

VOLUME 1



VISION

Making a difference in the lives and livelihoods of the Kenyan people



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Audit services that impact on effective and sustainable service delivery



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AUDITOR-GENERAL'S REPORT

ON

THE COUNTY GOVERNMENTS

FOR

THE YEAR 2023-2024

VOLUME 1 – COUNTY EXECUTIVES

Table of Contents

VOLUME 1 – COUNTY EXECUTIVES

Page

Foreword..... iii

Introduction.....vi

Code County Executive

1.	County Executive of Mombasa.....	1
2.	County Executive of Kwale.....	7
3.	County Executive of Kilifi.....	14
4.	County Executive of Tana River.....	25
5.	County Executive of Lamu	38
6.	County Executive of Taita/Taveta.....	50
7.	County Executive of Garissa	57
8.	County Executive of Wajir	66
9.	County Executive of Mandera	75
10.	County Executive of Marsabit.....	83
11.	County Executive of Isiolo.....	95
12.	County Executive of Meru	108
13.	County Executive of Tharaka-Nithi.....	114
14.	County Executive of Embu.....	120
15.	County Executive of Kitui	130
16.	County Executive of Machakos.....	138
17.	County Executive of Makueni.....	147
18.	County Executive of Nyandarua	152
19.	County Executive of Nyeri.....	167
20.	County Executive of Kirinyaga	175
21.	County Executive of Murang'a	183
22.	County Executive of Kiambu	188
23.	County Executive of Turkana.....	208
24.	County Executive of West Pokot.....	221
25.	County Executive of Samburu	228
26.	County Executive of Trans Nzoia.....	239
27.	County Executive of Uasin Gishu	250
28.	County Executive of Elgeyo/Marakwet.....	273
29.	County Executive of Nandi.....	284

30.	County Executive of Baringo	304
31.	County Executive of Laikipia.....	312
32.	County Executive of Nakuru	320
33.	County Executive of Narok.....	334
34.	County Executive of Kajiado	347
35.	County Executive of Kericho.....	356
36.	County Executive of Bomet.....	364
37.	County Executive of Kakamega.....	376
38.	County Executive of Vihiga	385
39.	County Executive of Bungoma	396
40.	County Executive of Busia	405
41.	County Executive of Siaya	419
42.	County Executive of Kisumu	430
43.	County Executive of Homa Bay	447
44.	County Executive of Migori	460
45.	County Executive of Kisii	471
46.	County Executive of Nyamira.....	491
47.	County Executive of Nairobi City.....	500
	Appendix.....	538

Foreword

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

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

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

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

Despite numerous reports indicating a lack of accountability and inadequate documents to support the legality and effectiveness in the use of public resources, failure to apply the requisite sanctions has resulted in some Accounting Officers not adequately accounting for the management and use of public resources with impunity. Lack of action and sanctions has also led to fiscal indiscipline including misallocations, wastage of resources, lack of value for money in the implementation of projects and loss of public funds, thereby impacting negatively on development programs. This, in turn, has threatened economic growth and the sustainability of service delivery to citizens. There are also instances where some Accounting Officers are in breach of Section 62 of the Public Audit Act, 2015 by failing to adequately prepare for audit which is exhibited by numerous inaccuracies in the financial statements presented for audit, lack of requisite supporting documents, several revisions of financial statements and, in some cases, reluctance to cooperate with the auditors during the audit process.

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

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

The audit scope has been expanding over the years due to the expansion of Government programs to ensure sustainable development and the delivery of continuous and quality services to the citizens. This has led to the growth in the national budget and the establishment of additional entities that I am required to audit and report on. In addition to the Ministries, Departments and Agencies (MDAs), State Owned Enterprises (SOEs), and County Governments, over nine thousand (9,000) Public Secondary Schools were directed by the Principal Secretary of the State Department for Basic Education, to prepare financial statements from 30 June, 2021 and submit to the Auditor-General for audit. Quite a number of schools have complied with this directive. During the year, my Office has conducted audits on a sample of four hundred and eighty-six (486) public secondary schools, for three (3) consecutive years 2020/2021, 2021/2022 and 2022/2023 in arrears, and issued reports to individual schools and the relevant offices as per the Constitution. Additionally, the Office has also undertaken special audits on infrastructure, grants and capitation for several public secondary schools and the report has also been issued.

Further, I am required to separately audit and report on financial statements for all three hundred and seventy-six (376) Level 4 hospitals and eighteen (18) Level 5 hospitals. During the year, the Office has undertaken audits on a sample of two hundred and fifty-seven (257) hospitals comprising two hundred and twenty-four (224) Level 4 Hospitals, eighteen (18) Level 5 Hospitals and five (5) Level 6 Hospitals and issued reports as provided by the constitution. We endeavor to audit all the hospitals from Level 4 in all Counties. I am also required to audit thirty-five (35) Teacher Training

Colleges, two hundred and thirty (230) Technical and Vocational Education and Training (TVET) Institutions funded through the Exchequer and Community Vocational Training Institutions that are estimated to be over one thousand two hundred (1,200) Institutions. In addition, new projects and funds have been created and all require timely oversight.

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

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

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

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


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

29 January, 2025

REPORT OF THE AUDITOR-GENERAL ON COUNTY GOVERNMENTS FOR THE YEAR 2023/2024

VOLUME 1 – COUNTY EXECUTIVES

1.0 Introduction

1.1 Constitutional Mandate of the Auditor-General

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

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

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

1.2 Responsibilities of Management and those Charged with Governance

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

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

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

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how each Management monitors compliance

with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

1.3 Auditor-General's Responsibility

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

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

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

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

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

1.4 Reporting Structure

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

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

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

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

- ii. **Report on Lawfulness and Effectiveness in Use of Public Resources**, in which I give a conclusion on whether or not public resources have been applied lawfully and in an effective way.
- iii. **Report on Effectiveness of Internal Controls, Risk Management and Governance**, in which I give a conclusion on whether internal controls, risk management and overall governance were effective.
- iv. **Report on Other Legal and Regulatory Requirements** is included where applicable, especially for the entities that are registered under the Companies Act, 2015 and any other enabling legislation or authorities that require such disclosure.

1.5 Audit Opinions

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

a) Unmodified Opinion

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

b) Qualified Opinion

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

c) Adverse Opinion

The financial statements exhibit significant misstatements with the underlying accounting records. There exists significant disagreement(s) between the financial statements and the underlying books of accounts and/or standards. These discrepancies and misstatements 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.

1.6 Audit Opinions

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

COUNTY EXECUTIVE OF MOMBASA - NO.1

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

The financial statements submitted for audit had the following anomalies;

- i. The retention money amounts of Kshs.11,643,945 and Kshs.22,057,499 to contractors were erroneously classified as construction and civil works, and other payments respectively.
- ii. The expenditure for street lighting amount of Kshs.13,744,900 was erroneously classified as office furniture and equipment instead of civil works.
- iii. Expenditure amounting to Kshs.53,025,925 on consultancy services for design, development and implementation of automated revenue generation and management system and County institutional ICT integration was erroneously charged under specialized materials while it related to prior year invoices which should have been charged under other payments.
- iv. Note 9 to other important disclosures reflects contingent liabilities amount of Kshs.8,694,660,198. However, the contingent liabilities register under Annex 6 to the financial statements, did not provide the liabilities details on nature, to whom payable, estimated amount and expected payment date as required by the reporting template.

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

2. Unexplained Voided Transactions

The statement of receipts and payments reflects total payments of Kshs.10,888,337,067. Analysis of IFMIS Internet Banking report (IB) for the year under review revealed that, the County Executive voided a total of Kshs.921,081,477 invoices which had been uploaded for payment. Included in the expenditure is an amount of Kshs.412,966,431 being payment requests towards suppliers and statutory deductions which were later voided. However, the voided payment vouchers, requests to void payments, the National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit review.

In the circumstances, the accuracy and completeness of the total payments of Kshs.10,888,337,067 could not be confirmed.

3. Unexplained Variances in Cash and Cash Equivalents

The statement of assets and liabilities and Note 13 to the financial statements reflect cash and cash equivalents balance of Kshs.179,092,436. However, review of the bank reconciliations statements, cash books and certificate of the bank balances revealed the following unexplained variances;

i. Variances Between Cash Book Balance and Reported Bank Balance

The reconciled cashbook credit balance amounts of Kshs.26,948,637, Kshs.554,662 and Kshs.29,727,257 were at variance with the financial statements reported amounts of Kshs.35,717,791, Kshs.1,364,599 and Kshs.321,381 for Mombasa County Deposit, Mombasa County Primary Health Care and Mombasa County Universal Health CBK Accounts resulting to unexplained variances of Kshs.62,666,428, Kshs.1,919,261 and Kshs.30,048,638 respectively.

ii. Variances Between Bank Reconciliation Statement and Certificate of Bank Balances

The bank reconciliation statements balance amounts of Kshs.35,717,791, Kshs.416, Kshs.94,647,454 and Kshs.321,381 were at variance with the bank certificate balances as at 30 June, 2024 of Kshs.11,303,844, Kshs.493,724,471, Kshs.28,116,889 and Kshs.6,542,566 for CBK Deposit, CBK Recurrent, CBK Development and CBK – THS Universal Health accounts resulting to unexplained variances of Kshs.24,413,947, Kshs.493,724,055, Kshs.66,530,565 and Kshs.6,221,185 respectively.

4. Long Outstanding Bank Reconciliation Transactions

The statement of assets and liabilities and Note 13 to the financial statements reflect cash and cash equivalents balance of Kshs.179,092,436. However, excluded in the bank reconciliation statements balances of deposit bank account, recurrent bank account and development bank account were long outstanding payments in cash book but not yet recorded in bank of Kshs.35,736,235, Kshs.16,113,894 and Kshs.41,061,070 respectively totalling Kshs.92,911,199 some dating back to August, 2022 and had not been reversed in the cashbook.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.179,092,436 could not be confirmed.

5. Unsupported Domestic Travel and Subsistence

The statement of receipts and payments and Note 4 to the financial statements reflect use of goods and services amount of Kshs.1,213,223,095 which include domestic travel and subsistence amount of Kshs.147,836,325. However, payments under the Departments of Public Service Board, Education and Finance and Economic Planning amounting to Kshs.4,157,100, Kshs.2,236,600 and Kshs.10,646,260 respectively were not supported with attendance schedules, back to office reports on benchmarking and acknowledgment of money received.

In the circumstances, the accuracy, completeness and regularity of expenditures on domestic travel and subsistence amounting to Kshs.17,039,960 could not be confirmed.

Emphasis of Matter

6. 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.15,990,000,000 and Kshs.11,947,471,895 respectively, resulting in under-

funding of Kshs.4,042,528,105 or 25% of the budget. Similarly, the County Executive spent an amount of Kshs.11,839,144,461 against actual receipts of Kshs.11,947,471,895 resulting in an under-expenditure of Kshs.108,327,434 or 1% of actual receipts.

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

7. Pending Bills

The other important disclosures under Note 20 to the financial statements discloses pending accounts payable of Kshs.2,955,131,107, pending staff payable of Kshs.1,485,441,135, all totalling Kshs.4,440,572,242. However, the pending bills were not supported with signed contracts and invoices to confirm authenticity of the bills. In addition, pending accounts payables under other important disclosures of Kshs.4,440,572,242 differs with pending accounts payables at annex 2 to the financial statements of Kshs.4,449,518,290, resulting to an unexplained variance of Kshs.8,946,048.

My opinion is not modified in respect of these matters.

Other Matter

8. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

9. Regularity of Human Resource Management Practices

The statement of receipts and payments and Note 3 to the financial statements reflect compensation of employees totalling Kshs.6,287,283,596. However, the following anomalies were observed;

9.1 Retention of Employees in Service above the Mandatory Retirement Age

A total of ninety-six (96) employees who were above the mandatory retirement age of sixty (60) were in the payroll. This was contrary to Section D.21 of the Public Service Commission Human Resource Policies and Procedures Manual, 2016 which states that all officers shall retire from the service on attaining the mandatory retirement age of sixty (60) years, sixty-five (65) years for persons with disabilities and/or as may be prescribed by the Government from time to time. Although Management explained that the officers were on extended contracts and others were living with disabilities, this was not supported with documents on contract extensions and disability certificates.

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

The reported compensation of employees totalling Kshs.6,287,283,596 represented 57% of the County's total revenue receipt of Kshs.10,995,108,827. This was contrary to Regulation 25(1)(a) and (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 thirty-five (35%) of the total County revenue.

9.3 Irregular Promotion

Review of personnel records of the County Government disclosed that sixteen (16) employees were irregularly promoted to more than one job group higher during the year without performance appraisal. This was contrary to Section G.18(2) of the Human Resource Policies and Procedures Manual for the Public Service, May, 2016 that provides that the performance appraisal report shall form the basis for placement, promotion and mobility of staff within and across the Civil Service.

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

Review of the payroll for the year under review revealed that two hundred and thirty-seven (237) employees had overcommitted their salaries and were earning less than one third (1/3) of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 which requires that an employee's salary should not be deducted beyond two thirds of the basic salary.

9.5 Irregular Appointment in Acting Positions

Review of human resource records revealed that seven (7) employees had acted in various capacities for periods of more than six (6) months contrary to Section 34(3) of the Public Service Commission Act, 2017 which provides that an officer may be appointed in an acting capacity for a period of at least 30 days but not exceeding a period of six (6) months.

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

10. Avoidable Legal Expenses

The statement of receipts and payments and Note 4 to the financial statements reflect use of goods and services amount of Kshs.1,213,223,095. Included in this expenditure is an amount of Kshs.72,148,514 relating to other operating expenses which include legal fees amounting to Kshs.67,525,793. Examination of payments on legal fees for various cases against the County Executive revealed that the County liability continued to increase due to failure to honour court rulings. The County failed to settle the balance of Kshs.8,113,181 with a motor vehicle sales Company which had accrued decretal sums, costs of the suit and interests totalling Kshs.68,578,169.

In addition, in a case with a contractor, the unpaid amounts have accrued decretal sums, costs of the suit and interests costs of Kshs.1,239,986 after Management failed to settle the contract sum of Kshs.854,926 for construction of vertical drains at Kongowea at a cost of Kshs.805,432 and construction of drainage system at Msikiti Nuru at a sum of Kshs.49,494 in the year 2006. The expenditures could have been avoided if the County had honoured the claims after the court rulings.

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

11. Delayed Completion of Early Childhood Development (ECD) Centre

As reported in the previous years, the Department of Education entered into a contract for the construction of eight (8) Early Childhood Development (ECD) schools in the financial year 2014/2015 at a total cost of Kshs.214,173,840. The contract duration was for thirty-two (32) weeks, commencing in May, 2014 and expected completion date of December, 2015. The contract for the construction of ECD Centre at Digirikani Primary School was awarded at a cost of Kshs.26,264,610. In June 2023, the contractor requested for extension of contract period citing rains, delayed payments and escalation in prices. However, as at the time of physical verification on 4 October, 2024 the Project was incomplete and the contractor was not on site. Further, window panes, toilets sewer line and manhole covers had not been done while the floors, electrical works and doors to the ablution blocks were incomplete and there was no project signage.

In addition, a payment to the contractor on 2 January, 2024 amounting to Kshs.3,153,770 was not supported with works valuation certificate.

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

12. Incomplete Surveillance System Contract

The statement of receipts and payments and Note 9 to the financial statements reflect acquisition of assets amount of Kshs.809,257,152 which includes purchase of specialized plant, machinery and equipment amount of Kshs.176,873,821. The County Executive paid an amount of Kshs.18,000,000 for provision of an Integrated Smart City Surveillance System against a contract signed on 04 March, 2024 for a contract sum of Kshs.94,044,042. An initial payment of Kshs.18,000,000, being 20% of the contract sum was paid to cover preliminary costs such as presentation of survey and mapping report and placing order for equipment. Although the consultant had done survey and mapping report, the order of equipment had not been confirmed as required in the contract.

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

13. Irregular Opening of Bank Accounts

The County Executive held three (3) commercial bank accounts, contrary to Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 that requires that all County Government bank accounts should be opened at Central Bank of Kenya except for imprest bank accounts for petty cash.

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

14. Outstanding Imprests

The statement of assets and liabilities and Note 14 to the financial statements reflects outstanding imprests amount of Kshs.25,797,432. However, no explanation was provided for the long outstanding imprests, some dating back to August, 2023. This was contrary to Regulation 93(5) and (6) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the holder of a temporary

imprest to account or surrender the imprest within seven (7) working days after returning to the duty station and that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer to take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

15. Lack of Approved Information Communication Technology Security Policy and Disaster Recovery Plan

Review of the Information and Communication Technology (ICT) of the County revealed that the Data Recovery Plan (DRP) and ICT Security Policy were all in draft form. In addition, the County had not installed antivirus programs in its systems and did not have mechanisms for ensuring that there was up-to-date security on the systems software. The County also did not have an ICT Steering Committee, a backup and retention strategy to ensure continuity of operations in case there were systems failure. Further, regular review and risk assessment of the operational areas were not conducted.

In the circumstances, the system users may not be guided on procedures to follow in order to minimize risk of errors or loss of data, integrity and availability.

16. Incomplete Project Implementation Status Report

During the year under review, Management provided the County Consolidated Project Status Report as at 30 June, 2024. However, the report lacked relevant information such as the financial year the project relates to, the amount paid during the year and the balance as at the end of the year.

In the circumstances, the status of the County projects as at 30 June, 2024 could not be confirmed.

COUNTY EXECUTIVE OF KWALE - NO.2

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

17. Inaccurate Expenditure on Acquisition of Assets

The statement of receipts and payments and Note 9 to the financial statements reflect acquisition of assets expenditure of Kshs.1,799,004,623 which includes expenditure on domestic payables from the previous year amounting to Kshs.988,846,682. However, other important disclosures 1 on pending accounts payable and Annex 2 to the financial statements show that the County's opening balance of pending accounts payable as at 1 July, 2023 amounted to Kshs.268,178,249, which differs with the pending bills paid during the year totalling Kshs.988,846,682, resulting to an unexplained increase by Kshs.720,668,433.

In the circumstances, the accuracy, existence and rights and obligations of the expenditure of Kshs.988,846,682 on acquisition of assets could not be confirmed.

18. Unsupported Voided Transactions

The statement of receipts and payments reflects total payments amounting to Kshs.9,392,698,890 which includes payments in respect to use of goods and services amount of Kshs.2,145,339,562, acquisition of assets amount of Kshs.1,799,004,623, transfers to other Government entities amount of Kshs.1,402,807,107 and other grants and transfers of Kshs.506,210,000. However, review of the Integrated Financial Management Information System (IFMIS) ledger records provided for audit revealed transactions amounting to Kshs.425,440,277 which were initiated but later voided without any justification. Further, the supporting documents including voided payment vouchers, requests to void payments, the National Treasury approval and Exchequer requisitions to the Controller of Budget were not provided for audit review.

In the circumstances, the accuracy and authenticity of the voided payments of Kshs.425,440,277 could not be confirmed.

19. Irregular Charge on the Cash Vote

The statement of comparison of budget and actual amounts (recurrent and development combined) for the year ended 30 June, 2024 reflects total expenditure of Kshs.9,392,698,890. Review of the Integrated Financial Management Information System (IFMIS) payment details revealed that payments totalling Kshs.1,315,790,267 were made on the cash vote instead of the line items as budgeted. No explanation was provided for failure to process these transactions through the budgeted line items.

In the circumstances, the accuracy and authenticity of payments totalling Kshs.1,315,790,267 could not be confirmed.

Emphasis of Matter

20. 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

amount of Kshs.13,168,456,197 and Kshs.9,448,307,309 respectively resulting to under-funding of Kshs.3,720,148,888 or 28% of the budget. Similarly, Management spent Kshs.9,392,698,890 against the actual receipts of Kshs.9,448,307,309 resulting to under-utilization of Kshs.55,608,419.

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

My opinion is not modified in respect to this matter.

Other Matter

21. Unresolved Prior Year's Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

22. Compensation of Employees

The statement of receipts and payments and Note 3 to the financial statements reflect an expenditure of Kshs.3,534,133,545 in respect to compensation of employees. Review of human resource records provided for audit revealed the following anomalies:

22.1 Non-Compliance with the Law on Ethnic Composition in Recruitment and Overall Staff Composition

Review of personnel records revealed that the County Executive had three thousand, nine hundred and ninety-four (3,994) members of staff as at 30 June, 2024. The staff register for June 2024 indicated that three thousand and eighteen (3,018) or 76% members of staff were from one dominant ethnic community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2012 which prohibits a composition of more than 30% from one community. Further, one hundred and sixteen (116) employees were recruited during the financial year out of whom, one hundred and two (102) or 88% were from the dominant ethnic community in the County. This was contrary to Section 65(1) (e) of the County Governments Act, 2012 which requires the County Public Service Board to ensure at least thirty percent of vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

22.2 Failure to Meet Recruitment Thresholds for Persons with Disabilities

The County Executive recruited one hundred and sixteen (116) employees during the year. However, no persons living with disability were recruited yet the numbers are below the minimum required threshold contrary to the provisions of part B.23 (2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which sets a threshold of 5% of positions to be filled by persons with disability and Section 5

(3) (a) of the Employment Act, 2007 which states that no employer shall discriminate directly or indirectly against a prospective employee inter alia, on grounds of disability.

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

23. Irregular Payment to the Council of Governors

The statement of receipts and payments and Note 4 to the financial statements reflect use of goods and services expenditure of Kshs.2,145,339,562 which includes an amount of Kshs.143,472,821 in respect of hospitality supplies and services. Included in hospitality supplies and services is an amount of Kshs.4,000,000 paid to the Council of Governors for devolution conference registration expenses. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

24. Lack of Ownership Documents for Construction of Early Childhood Development Education Centers

The statement of receipts and payments and Note 9 to the financial statements reflects acquisition of assets expenditure of Kshs.1,799,004,623. Included in the expenditure is an amount of Kshs.66,337,172 in respect of construction of buildings which includes an amount of Kshs.34,096,300 incurred on the construction of Early Childhood Development Education (ECDE) centers. Review of records provided for audit revealed that the Department of Education entered into contracts with various contractors for the construction of ECDE centers in various locations within the County at a cost Kshs.132,823,548. However, Management did not provide ownership documents for the land on which the centers are being constructed including title deeds, leases or memorandum of understanding for use on the parcels of land.

In the circumstances, the ownership, of the ECDE centers could not be confirmed.

25. Stalled Projects

Review of the project implementation status report as at 30 June, 2024, previous years' audit reports and physical verification of projects revealed that several projects had stalled at various stages of completion as follows:

25.1 Construction of Wholesale Market at Kombani

As previously reported, the County Executive entered into a contract with a local contractor for the construction of wholesale market at Kombani on 7 March, 2021 at a contract sum of Kshs.105,911,142 and contract period ending on 2 May, 2022. The contract sum was later varied upwards by an amount of Kshs.12,150,838 to Kshs.118,061,980. However, the contract was terminated on 2 November, 2021 with total payments to the contractor of Kshs.95,308,265 including an amount of Kshs.9,530,826 paid as retention money for the works executed before the termination of the contract. Additionally, the payment was not supported with the final acceptance of goods, works or services delivered by the contractor before termination of the contract and final project appraisal.

Physical verification of the facility carried out in October 2024 revealed that the market had been vandalized with doors and windows and cold room machines had been removed or vandalized. Management explained that the market was not in use due to a court order obtained by the contractor barring the County from accessing the facility.

25.2 Proposed Construction of Maji Moto Eco Resort Phase III

As previously reported, the County Executive entered into a contract with a local contractor for the construction of an Eco Resort in Zomba-Lunga Lunga Sub-County on 30 March, 2021 for a contract period of 120 days. However, the contract sum was varied from Kshs.22,457,225 to Kshs.27,643,827 on 23 June, 2021, representing an increase of Kshs.5,186,602 or 23% of the contract sum before the lapse of one year contrary to the provisions of Section 139(3) of the Public Procurement and Asset Disposal Act, 2015 which provides that, no contract price shall be varied upwards within twelve months from the date of the signing of the contract. Further, no evidence was provided in support of review of the variation by the evaluation committee contrary to Regulation 132(2) (a) and (b) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that any variation request should be reviewed by the contract implementation team for complex and specialized contracts or an evaluation committee for other contracts.

During the financial year 2022/2023 the department made budgetary allocation totalling Kshs.1,953,274 but there was no expenditure incurred as no works were done on the project. Further, payment amounting to Kshs.3,233,328 was made under Certificate No. 6 of 16 December, 2022, which was not supported by itemized measured works.

Information available indicates that the contract period ended on 7 August, 2021 yet as at the time of the audit in September 2024, the project was still incomplete and no information or plans were provided for audit confirmation on the steps being taken to complete the project.

25.3 Fruit Processing Plant Phase III

As previously reported, the Department of Trade entered into a contract with a local contractor for the construction of fruit processing plant in Shimba Hills on 8 February, 2021 at a contract sum of Kshs.84,891,737 and a contract period of twelve months. Review of the project implementation report revealed the following anomalies:

- i) The contract was terminated on 24 January, 2022 after breach of the contract by the contractor who had been paid an amount of Kshs.27,868,014. The remaining works were re-tendered and a new contract was entered into on 16 May, 2022 with another contractor at a contract sum of Kshs.52,786,053 and with a contract period of twelve months.
- ii) The project was implemented in phases but the master plan and the implementation plans were not provided for audit review. Although phase one of the project was completed in 2021, the buildings were idle and had started falling apart. In addition, monthly progress reports were not prepared by the Project Implementation Committee and the terminated project phase was not appraised before making the final payment.

- iii) Comparison of the Bills of Quantities issued to second contractor for the completion of phase one and the original Bills of Quantities indicated that the bulk store wall surface was increased from 48 m² to 487.6 m², or a 1,016% increase in wall surface size. Management did not provide an explanation for the structural variation.
- iv) Physical verification carried out on 22 August, 2023 revealed that the second contractor invoiced and was paid for items worth Kshs.3,735,310 which were not delivered or executed. In addition, the second contractor invoiced and was paid Kshs.4,200,000 in the year under review for cabro paving materials on site yet the contract entered into was for construction and the contract only allowed for payment after delivery and installation. It was further noted that construction was not in progress despite the contractor being on site, three months after the lapse of the contract period and without a valid contract extension.
- v) In the financial year 2023/2024, there was no budgetary allocation for the project despite being incomplete. Further, inspection carried out in the month of October, 2024 revealed that the contractor was not on site.

25.4 Incomplete Construction of Governor's Residence

As previously reported, the County Government entered into a contract on 5 April, 2018 for the construction of the Governor's residence at a contract sum of Kshs.149,374,374 and for a contract period of twelve months ending 5 April, 2019. The period was extended to 5 August, 2019 with a contract sum variation of Kshs.34,403,702, approved on 5 May, 2019. The following unsatisfactory issues were observed:

- i) The project's estimated cost of Kshs.149,216,375 exceeded the Salaries and Remuneration Commission (SRC) set ceiling of Kshs.45,000,000, vide Circular Ref. No SRC/TS/COG/6/61/48 II of 3 May 2019, by Kshs.104,216,375.
- ii) The County unsuccessfully sought approval for ratification of the exceeded budget ceiling from SRC on 28 November, 2019 citing that the contract had been entered into before the SRC guidelines and, the Senate who through Senate Standing Committee on finance and budget of 27 April, 2020 cited that the Senate could not vary or affect the life of contracts it is not party to. Despite the outcomes, Management further increased the project cost by Kshs.34,403,702 without further approvals by the regulatory bodies.
- iii) The County through letter dated 6 December, 2021 to the contractor issued notice of termination of contract following the recommendation of the Director of Public Works dated 23 November, 2021 indicating that despite having prolonged the contract period to 28 January, 2022 the ongoing works on the site was very slow and not as per the work schedule and that the contract bond had expired.
- iv) On 4 July, 2020 the contractor made a claim of Kshs.27,613,984, arising from, interest on delayed payments amounting to Kshs.3,669,3751, idle labour from December, 2019 to June, 2020 made up of Kshs.3,307,246, idle equipment for December, 2019 amounting to June, 2020 of Kshs.17,561,696 and extended preliminaries totalling Kshs.3,175,666.

- v) On 10 March, 2022 the contractor wrote to the County giving early warning of a situation threatening to delay the works and or suspension of contract activities due to delay in payment of claims amounting to Kshs.27,613,984 and delay in approval of extension of time with a further claim of Kshs.18,722,283 and Kshs.19,180,800.
- vi) As at August, 2023, the contractor had been paid an amount of Kshs.119,789,114. However, the contractor had abandoned the site on claims that the County Executive had failed to meet its end of the contractual obligation and claimed a total sum of Kshs.61,972,096.
- vii) In the financial year 2023/2024, a total of Kshs.11,000,000 was allocated to the project although no construction works were done and the contractor was not on site.

In the circumstances, the value for money on funds used in the incomplete and stalled projects could not be confirmed

25.5 Delays in the Construction of Twin Workshop in Mwabila Technical and Vocational Training Center

The statement of receipts and payments and Note 9 to the financial statements reflect acquisition of assets balance of Kshs.1,799,004,623 which includes construction of buildings amount of Kshs.66,337,172. Review of records in respect to a payment of Kshs.6,884,722 in respect to the construction contract revealed the following:

- i) The contract duration had expired and no request for extension had been submitted by the contractor for approval.
- ii) Review of site visit minutes for a meeting held in March, 2024 shows that the project was 88% complete and recommended that the contractor be paid for works done valued at Kshs.6,884,722 as per the engineer's certificate. However, as at the time of project inspection in October, 2024, the project was still at 88% level of completion and one hundred and eighty (180) days past due date.
- iii) The payment made to the contractor included Kshs.250,000 for electricity connection. However, field verification revealed that the TVC was not connected to electricity.

In the circumstances, value for money on the expenditure of Kshs.6,884,722 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

26. Dormant Bank Accounts

The statement of asset and liabilities reflects cash and cash equivalents totalling Kshs.368,231,824 as disclosed in Note 13 to the financial statements. Included in the cash and cash equivalents balance are balances held in three (3) bank accounts of Kshs.4,254 with last transactions as per cash books and bank statements being

between May, 2022, and March, 2023 an indication of no activities for a prolonged period of time.

In the circumstances, the effectiveness of internal controls on operation and in management of bank accounts could not be confirmed.

27. Lack of Approved County Staff Establishment

The statement of receipts and payments and Note 3 to the financial statements reflect compensation of employee's expenditure amount of Kshs.3,534,133,545 incurred during the year. However, review of human resource records revealed that the County Government carried out various human resource functions such as recruitment, selection, appointment, promotions, and transfer of employees without an approved County staff establishment to guide on the vacancies for appointments, promotions, redesignations, and planning on employee development.

In the circumstances, the effectiveness in internal controls on management of human resource functions could not be confirmed.

COUNTY EXECUTIVE OF KILIFI - NO.3

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

28. 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 payments on transfers to other Government entities, other grants and transfers and acquisition of assets amounting to Kshs.257,155,791, Kshs.2,014,313,379 and Kshs.2,040,209,306 respectively while the statement of receipts and payments and supporting schedules reflects corresponding payments amounting to Kshs.629,666,668, Kshs.1,641,802,502 and Kshs.2,042,819,310 resulting to an unreconciled variances of Kshs.372,510,877, Kshs.372,510,877 and Kshs.2,610,004 respectively.

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

29. Inaccuracies in Transfers from County Revenue Fund

The statement of receipts and payments reflects receipts from the CRF amount of Kshs.13,272,089,760 while the County Revenue Fund (CRF) financial statements reflects corresponding transfers to the County Executive amounting to Kshs.13,387,261,671, resulting to an unexplained variance of Kshs.115,171,911.

In the circumstances, the accuracy and completeness of the receipts on transfers from the CRF amounting to Kshs.13,272,089,760 could not be confirmed.

30. Inaccuracies in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflect payments on compensation of employees totalling Kshs.4,158,068,890. Included in the payments is basic salaries of permanent employees amounting to Kshs.2,028,397,714. However, the Integrated Payroll and Personnel Database (IPPD) reflects payments totalling Kshs.2,148,474,485 resulting to an unexplained variance of Kshs.120,076,771. Further, included in the payments on the compensation of employees are payments totalling Kshs.243,948,050 in respect of basic wages of temporary employees. However, the casual staff register containing the casuals' bio data was not maintained during the year under review.

In the circumstances, the existence, accuracy and completeness of the compensation of employees amounting to Kshs.4,158,068,890 could not be confirmed.

31. Unsupported Long Outstanding Imprests and Advances Balance

The statement of assets and liabilities and as disclosed in Note 10 to the financial statements reflect outstanding imprests and advances balance of Kshs.90,140,166. Included in this balance is an amount of Kshs.5,403,303 relating to Government imprests for prior years dating back to 2016/2017 financial year. No explanation was given for the failure to surrender the imprest or recover from the beneficiaries. Further,

the imprest register was not provided for review. In addition, the balance includes an amount of Kshs.84,736,863 in respect of receivables from Kenya Revenue Authority and loss of cash which Management confirmed that it is still in court and has not been concluded. However, the details and progress of the case has not been disclosed under Annex 8 on contingent liabilities.

In the circumstances, the accuracy, completeness and recoverability of the outstanding imprests and advances balance of Kshs.90,140,166 could not be confirmed.

32. Inaccuracies in Deposits and Retentions Balance

The statement of assets and liabilities and as disclosed in Note 11 to the financial statements reflect deposits and retention balance of Kshs.184,941,256 while the prior year balance was Kshs.305,994,526. The balance includes deposits and retentions balance of Kshs.76,110,183 relating to prior year periods of between one (1) year to over three (3) years. Further, the balance includes contractor's retention balance held in a local commercial bank of Kshs.22,900,728. However, the corresponding cashbook had a balance of Kshs.1,576,079 resulting to an unexplained variance of Kshs.21,324,649.

In the circumstances, the accuracy and completeness of the deposits and retentions balance of Kshs.184,941,256 could not be confirmed.

33. Inaccuracies in Pending Bills Balance

Note 16 to the financial statements under other important disclosures reflects pending accounts payables balance of Kshs.6,091,340,081 which includes balances of Kshs.5,953,300,955 and Kshs.138,039,126 in respect of pending accounts payables and pending staff payables respectively. The pending accounts payables balance includes an amount of Kshs.4,548,562,713 in respect of additions to pending accounts payables for the year. However, the invoices and payment demand notices not paid during the year under review, supporting this balance were not provided.

Further, the balance includes an amount of Kshs.1,879,424,619 in respect of pending accounts payables paid during the year. However, Note 3 to the financial statements on use of goods and services includes payments in respect of other creditors totalling Kshs.988,217,122 resulting to a variance of Kshs.891,207,497. In addition, the pending staff payables balance of Kshs.138,039,126 includes a brought forward amount of Kshs.97,033,925 which was restated from a balance of Kshs.83,166,678 resulting to an unexplained variance of Kshs.13,166,678.

In the circumstances, the accuracy, completeness and regularity of pending bills balance of Kshs.6,091,340,081 could not be confirmed.

34. Unsupported Payments on Emergency Relief and Refugee Assistance

The statement of receipts and payments reflects payments on other grants and transfers amount of Kshs.1,641,802,502 as disclosed in Note 5 to the financial statements. Included in the balance are payments amounting to Kshs.44,639,728 in respect of payments on emergency relief and refugee assistance made to four (4) companies for supply and delivery of relief food items. Management explained that the payments related to procurement of food and non-food items for disaster management

and special programs for mitigative measures to cushion vulnerable communities from adverse impacts of disasters. During the year under review, transfers totalling Kshs.250,000,000 were made to the emergency fund. Management indicated that the division uses the central store to receive and dispatch food items procured by the division. However, weighbridge reports confirming the quantities received and issued were not provided. Further, details of delivery vehicles from the central stores to the distribution points were not provided.

In the circumstances, the accuracy, occurrence and completeness of emergency relief and refugee assistance amounting to Kshs.44,639,728 could not be confirmed.

35. Unsupported Payments on Construction and Civil Works

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflect acquisition of assets amount of Kshs.2,042,819,310 out of which payments totalling Kshs.672,527,878 relate to construction and civil works. Included in the payments is an amount of Kshs.33,754,633 incurred on construction of water works which was not supported by status report of the contracts prepared by Project Implementation Committee and submitted to the accounting officer. Documentary evidence to show that the accounting officer reported the said contracts awarded to Public Procurement Regulatory Authority on monthly basis and specific reason why the bid submitted by successful bidder were successful was not provided for audit. Further, taxes had been deducted from the service provider but not paid.

Physical verification carried out on 8 October, 2024 for projects valued at Kshs.58,798,299 revealed that the implementation of the projects was inconsistent with the Bills of Quantities. There were missing concrete cover slabs for valve chambers, painting works were not done, missing panels and the water kiosk had missing taps among other issues.

In the circumstances, the accuracy, completeness and regularity of expenditure on the construction and civil works amounting to Kshs.672,527,878 could not be confirmed.

Emphasis of Matter

36. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.18,812,448,474 and Kshs.13,397,862,925 respectively resulting to an under-funding of Kshs.5,414,585,549 or 29% of the budget.

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

My opinion is not modified in respect of this matter.

Other Matter

37. 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 by 30 June, 2024 or given any explanations for failure to implement the recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

38. Irregularities in Human Resource Management Practices

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects payments totalling Kshs.4,158,068,890 in respect of compensation of employees. Review of records revealed the following issues;

38.1 Non-Compliance with National Cohesion and Integration Act, 2008

Review of payroll records revealed that out of the total number of staff members of four thousand four hundred and nine (4,409), a total of three thousand four hundred and ninety-six (3,496) or 79% were from the dominant community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one-third of its staff from the same ethnic community.

38.2 Non-Compliance with the One-Third Rule on Basic Pay

Review of the payroll records provided revealed that various employees had deductions that were more than two-thirds of their basic pay as indicated below:

Month	Number of Staff	Month	Number of Staff
July, 2023	11	January, 2024	4
August, 2023	9	February, 2024	4
September, 2023	8	March, 2024	3
October, 2023	6	April, 2024	6
November, 2023	3	May, 2024	3
December, 2023	9	June, 2024	2

This was contrary to the provisions of Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages or such additional or other amount as may be prescribed by the Minister.

38.3 Irregular Promotion of Staff

Review of payroll records and Integrated Payroll and Personnel Database (IPPD) revealed that eighty-seven (87) staff members promoted during the year were not included in the list of members of staff promoted or redesignated contrary to Section B.5 of Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that recruitment will be undertaken on the basis of fair competition and merit.

38.4 Irregular Retention of Employees Beyond Retirement Age

Review of the IPPD staff register revealed that twenty-six (26) employees who were above the mandatory retirement age of 60 years were still in the staff register contrary to Section D.21 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires that all officers shall retire from the service on attaining the mandatory retirement age of 60 years, 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.

39. Irregular Training Expenses

The statement of receipts and payments reflects use of goods and services amounting to Kshs.4,765,030,648 as disclosed in Note 3 to the financial statements which includes training expenses amounting to Kshs.36,193,802. However, the payments were not supported by training needs assessment and training plan contrary to provisions of Section I.1 (4) of the Public Service Commission of Kenya County Public Service Human Resource Manual, 2013 on training and development which provides that all training must be based on identified training needs. Further, approval of the training programs was not provided contrary to Section I.8 of the Manual on course approval which requires that the County Public Service Board to grant course approval to officers proceeding on authorized training in accordance with service regulations and that the County Secretary will be responsible for issuance of course approvals for local training and approve all local courses undertaken in their respective County Departments on the recommendation of the County Departmental Training Committee.

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

40. Irregular Legal Services Payments

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflect an amount of Kshs.4,765,030,648 relating to use of goods and services. Included in the payments is an amount of Kshs.276,298,865 in respect of other operating expenses out of which payments totaling Kshs.71,571,803 was paid to six (6) private legal practitioners representing the County Executive in various legal cases, providing legal consultancy services and payment to a firm that sued the County for breach of contract. However, the payments were not supported by instructions to represent the County, evidence of court appearances and taxation where applicable.

Further, written approval of County Executive Committee to engage the services of the consultants or legal firms was not provided contrary to Section 16 of Office of the County Attorney Act, 2020 which states that a department or public entity established within a County Executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without the approval of the County Executive Committee and that a request by a department or public entity to the County Executive Committee to engage the services of a consultant for the provision of legal services, shall be in writing.

In addition, the law firms were engaged through two (2) framework agreements signed on 8 January, 2021 and 24 June, 2021. However, the need for a new framework agreement while there was an existing framework for a period of three (3) years was not provided. Similarly, value for money assessment report was not provided contrary to Section 114(2) of the Public Procurement and Asset Disposal Act, 2015 which states that the maximum term for the framework agreement shall be three years and, for agreements exceeding one year, value for money assessment undertaken annually to determine whether the terms designated in the framework agreement remain competitive.

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

41. Irregular Procurement of Works on Construction of Roads

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflect payments amounting to Kshs.2,042,819,310 in respect of acquisition of assets. Included in the payments is an amount of Kshs.574,339,642 in respect of construction of roads out of which an amount of Kshs.46,428,927 was incurred on road grading and upgrading services. However, the signed contracts did not specify the procurement number, which is a crucial reference for tracking and auditing the procurement process. Further, the funds used for these road works were drawn from recurrent expenditure. In addition, the road drawings issued during the procurement process were similar to those used in other road works projects, which questions the appropriateness of the drawings for the current project. This was contrary to Section 149 of the Public Finance Management Act, 2012 which states that the responsibilities of accounting officer is to ensure that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized; and effective, efficient, economical and transparent.

Further, payments amounting to Kshs.171,474,043 were not supported by filled certificate of measured works, site inspection minutes, instructions and detailed report by the inspection and acceptance committee. In addition, physical verification of nine (9) road and bridge projects with a total contract sum of Kshs.182,069,861 revealed that items which were in the Bill of Quantities were omitted including designated footpaths or walkways, drainage, signage, culverts and road markings where applicable.

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

42. Irregular Procurement of Consultancy Services

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflect an amount of Kshs.2,042,819,310 relating to acquisition of assets. Included in the amount is an expenditure of Kshs.26,369,480 in respect of acquisition of intangible assets out of which an amount of Kshs.6,503,243 was paid for consultancy services to three (3) companies. However, review of procurement records revealed that all the tender opening committee members were involved in tender evaluation contrary to Section 78(1)(b) of the Public Procurement and Asset Disposal Act, 2015 which states that, at least one of the members shall not be directly involved in the processing or evaluation of the tenders. Further, payment vouchers and project file were not supported with audited accounts for two (2) years as per the technical

evaluation report. In addition, payment was not supported with work plan and project manager relevant experience.

In the circumstances, the regularity of acquisition of intangible assets amounting to Kshs.6,503,243 could not be confirmed. Further, Management was in breach of the law.

43. Irregular Procurement of Internet Services

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflect use of goods and services amount of Kshs.4,765,030,648 which includes an amount of Kshs.24,737,296 in respect of communication, supplies and services out of which payments totalling Kshs.6,461,245 were in respect of procurement of internet services. However, the contracts contained irregularities such as lack of an end date, failure to clarify who will act as the data controller and the data processor, failure to mention data security measures, failure to indicate how long the email addresses will be stored or how they will be disposed off after the subscription period ends, lack of provisions for notifying the entity in the event of a data breach involving the email addresses and failure to disclose where or how the email addresses will be hosted or managed, potentially leading to non-compliance with the data localization requirements. This was contrary to Section 25 of the Data Protection Act, 2019 which provides that every data controller or data processor shall ensure that personal data is processed in accordance with the right to privacy of the data subject and processed lawfully, fairly and in a transparent manner in relation to any data subject.

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

44. Irregular Payments to Council of Governors

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflect an amount of Kshs.4,765,030,648 relating to use of goods and services. Included in the payments is an amount of Kshs.276,298,865 in respect of other operating expenses out of which payments totalling Kshs.3,000,000 was paid to the Council of Governors. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

45. Irregularities in the Construction of Buildings

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflect an amount of Kshs.2,042,819,310 relating to acquisition of assets out of which an amount of Kshs.180,636,986 was in respect of payments for construction of buildings. Review of records revealed the following anomalies;

45.1 Failure to Mobilize Resources for Construction of County Aggregation and Industrial Park

Included in the expenditure on construction of buildings is an amount of Kshs.42,857,960 which relates to construction of County Aggregation and Industrial Park. The County entered into a contract for the construction of County Aggregation and Industrial Park with a local contractor at a contract sum of Kshs.515,077,919. However, the National Government was to raise an amount of Kshs.250,000,000 and the County was to contribute an amount of Kshs.250,000,000 thus the source of the excess cost of Kshs.15,077,919 could not be established. The County had failed to mobilize resources for the construction of the County Aggregation and Industrial Park.

This was contrary to Section 108(4) of County Governments Act, 2012 which states that resource mobilization and management framework shall be reflected in a County's Integrated Development Plan and shall at least include the budget projection required under the law governing County Government financial management, indicate the financial resources that are available for capital project developments and operational expenditure, include a financial strategy that defines sound financial management and expenditure control as well as ways and means of increasing revenues, external funding for the county and its development priorities and objectives.

Audit inspection conducted in October, 2024 revealed that there was an ablution block structure with roofing, office block structure with roofing, generator house structure with roofing, perimeter fence partially complete, excavation works were in progress and the contractor was on site. However, the site was not secured with a gate and sign board had not been erected as per the Bill of Quantities which required sign board and hoarding of the site for protection and safe custody of the works, materials and employee's property. This was contrary to Regulation 139 (1) of Public Procurement and Asset Disposal Regulations, 2020 which provides that a contractor shall satisfactorily perform its contractual obligations prior to any payment by a procuring entity.

45.2 Irregular Payments for Construction of Mtwapa Law Courts

Included in the payments on construction of buildings is an amount of Kshs.13,154,035 relating to construction of Mtwapa Law Courts in Mtepeni Ward. The County Executive spent funds on a mandate that belongs to the National Government as outlined in the 4th Schedule of the Constitution of Kenya which classifies Courts as a National Government function. Further, Management did not provided evidence of agreement with the Judiciary on how the Judiciary will provide Judges, Registrar and Court Clerks.

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

46. Irregularities in Purchase of Specialized Plant Equipment and Machinery

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflect an amount of Kshs.2,042,819,310 relating to acquisition of assets. Included in the payments is an amount of Kshs.236,830,381 in respect of purchase of specialized plant, equipment and machinery. Review of records revealed the following issues;

46.1 Failure to Fully Implement County Integrated Hospital Management Information System

Included in the payments on purchase of specialized plant, equipment and machinery is an amount of Kshs.31,644,827 paid to a supplier for supply, delivery, training and commissioning of County Integrated Hospital Management Information System. The system has five (5) Modules including outpatient module, inpatient module, medical health report module, pharmacy and commodity management module and financial module. However, it was noted that the inpatient and financial modules have not been implemented. Further, the service level agreement and handing over report were not provided for audit. This was contrary to Section 149.(1) of the Public Finance Management Act, 2012 which states that an accounting officer is accountable to the County Executive for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized and effective, efficient, economical and transparent.

46.2 Irregular Advance Payment for Supply and Delivery of Computed Tomography (CT) Scan Machine

Included in the payments on purchase of specialized plant, equipment and machinery is an amount of Kshs.75,920,000 for supply and delivery of CT scan machine with the contract amount paid in full on 30 June, 2024. However, verification in October, 2024, about four (4) months later, it was noted that the CT scan machine had not been delivered. Management explained that the payment was done because the manufacturer would not release the equipment without payment. This was contrary to Section 146 of Public Procurement and Asset Disposal Act, 2015 which states that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the accounting officer of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement. Further, Section 147(1) of the Act states that under exceptional circumstances advance payment may be granted and shall not exceed twenty percent (20%) of the price of the tender.

46.3 Unutilized Incinerator and X-Ray Machine

Included in the payments on purchase of specialized plant, equipment and machinery is an amount of Kshs.33,499,810 for supply and delivery of incinerator. However, it was observed that the incinerator was delivered on 5 March, 2024 but had not been put into use as at the time of audit in October, 2024 about seven (7) months later. Further, an amount of Kshs.14,499,630 was paid for supply and delivery of digital x-ray machine. It was observed that the X-ray machine was delivered on 22 February, 2024. However, physical inspection carried out in October, 2024 about eight (8) months later, it was observed that the X-ray machine was not in use and was still in the store. This was contrary to Section 149 of the Public Finance Management Act, 2012 which states that an accounting officer is accountable to the County Executive for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized and effective, efficient, economical and transparent; and that accounting officer of the County Government shall manage the assets of the entity to ensure that it receives value for money when acquiring, using or disposing of its assets.

In the circumstances, Management was in breach of the law and value for money on the expenditure of Kshs.33,499,810 spent on the equipment could not be confirmed.

47. Irregular Payments on Other Current Transfers, Grants and Subsidies

The statement of receipts and payments reflects payments on other grants and transfers amount of Kshs.1,641,802,502 as disclosed in Note 5 to the financial statements. The payments include an amount of Kshs.347,570,434 in respect of other current transfers, grants and subsidies. However, review of records revealed that payments totalling Kshs.18,344,184 were made to various companies and individuals in respect of suppliers for Sub County Level IV Hospitals equipment. The payments were wrongly charged to other grants and transfers contrary to Regulation 53(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that, except as provided for in the Act and this Regulations, an accounting officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.

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

48. Unserviceable Motor Vehicles and Equipment

Review of the fleet of motor vehicles and equipment revealed that the County Executive had a total of seven hundred and fifty-eight (758) motor vehicles, out of which one hundred and sixty-four (164) were grounded and unserviceable. Management did not provide the Annual Disposal Plan contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 requires an accounting officer of a procuring entity to ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment.

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

49. Irregular Payments on Office Furniture and General Equipment

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflect payments amounting to Kshs.2,042,819,310 relating to acquisition of assets. Included in the expenditure is an amount of Kshs.70,653,087 in respect of purchase of office furniture and general equipment out of which an amount of Kshs.634,685 relates to purchase of office furniture. The furniture was delivered on 30 June, 2023. Audit inspection of the items in October, 2024 revealed that fifty-five (55') inch TV valued at Kshs.151,450 was not functional, eight (8) office chairs and four (4) desks had not been issued while two (2) chairs and office desks were not verified and the assets were not recorded in the assets register. This was contrary to Regulation 133(1) and (2) of the Public Finance Management (County Governments) Regulation, 2015 which provides that an accounting officer shall be responsible for the proper custody, care and use of Government inventories under their control, including imported goods in vessels awaiting discharge and in customs warehouses awaiting clearance.

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

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

Basis for Conclusion

50. Failure to Act on Internal Audit Reports

Review of Internal Audit reports and Audit Committee minutes revealed the accounting officers from all the departments failed to fast-track implementation of internal audit committee recommendations and follow up of implementation of external audit recommendations as there were no responses and action plans from the departments to prove that recommendations had been implemented. Several departments did not respond to issues raised by Internal Audit Unit. Further, due to expiry of tenure for Audit Committee Members and delayed recruitment and commissioning of new members, there were only two (2) committee meetings held during the financial year 2023/2024 hence interfering with internal audit work plan and tracking of implementation.

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

COUNTY EXECUTIVE OF TANA RIVER - NO.4

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

51. Unreconciled Variances Between Financial Statements and IFMIS Ledgers

The financial statements reflects amounts that differ with Integrated Financial Management Information System (IFMIS) records resulting in variances as shown below:

Component	Amount as Per Financial Statements (Kshs)	Amount as Per IFMIS Statement (Kshs)	Variance (Kshs)
Use of Goods and Services	1,448,919,594	1,450,673,881	(1,754,287)
Transfers to Other Government Entities	500,633,829	614,104,797	(113,470,968)
Acquisition of Assets	2,151,477,888	1,013,192,005	1,138,285,883
Other Payments	137,746,663	1,166,828,378	(1,029,081,715)

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

52. Inaccuracies in the Budget Execution by Programs and Sub-Programs

The budget execution by programs and sub-programs reflects total actual expenditure on a comparable basis amount of Kshs.6,402,768,835 and total budget utilization difference amount of Kshs.1,423,291,278 which differed with the recomputed total amounts of Kshs.6,260,640,056 and Kshs.1,565,291,278 resulting to unreconciled variances of Kshs.142,128,779 and Kshs.142,000,000 respectively.

In the circumstances, the accuracy and completeness of the budget execution by programs and sub-programs could not be confirmed.

53. Inaccuracies in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees' expenditure amount of Kshs.1,945,696,586. However, the payroll records reflected an amount of Kshs.1,907,249,206 resulting to an unreconciled variance of Kshs.38,447,380.

In the circumstances, the accuracy and completeness of compensation of employees expenditure amount of Kshs.1,945,696,586 could not be confirmed.

54. Unsupported Payments on Domestic Travel and Subsistence Allowances

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects payment amounting to Kshs.1,448,919,594. The amount includes Kshs.344,077,499 incurred on domestic travel and subsistence expenditure out of

which an amount of Kshs.12,373,300 was not supported with signed payment schedules, motor vehicle work tickets or bus tickets or boarding pass, attendance registers, reports of the meetings and the purpose of the travel.

In the circumstances, the accuracy and completeness of domestic travel and subsistence allowances amounting to Kshs.12,373,300 could not be confirmed.

55. Irregular Payment of Foreign Travel and Subsistence Allowances

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects payment amounting to Kshs.1,448,919,594. The amount includes foreign travel and subsistence expenses of Kshs.26,503,679 out of which Kshs.6,395,500 was incurred on staff allowances while attending Jumuiya Trade Investment and Education Exchange Mission in United States of America. However, invitation letters to participants, back-to-office report documenting the outcome of the mission, lessons learned, and the value gained from the conference were not provided for audit review. Further, no justification was provided for holding a local economic block event outside the country while Kenya Coastal Region has plenty of venues to host such events at a reasonable cost.

In the circumstances, the accuracy and completeness of foreign travel and subsistence allowances amounting to Kshs.6,395,500 could not be confirmed.

56. Irregular Payments of Hospitality Supplies and Services Expenses

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects payments amounting to Kshs.1,448,919,594 in respect of use of goods and services. The amount includes Kshs.173,624,332 on hospitality, supplies and services expenditure out of which, Kshs.3,850,000 was in respect of payments made to the Jumiya Economic Development Secretariat that were not supported by any law or policy guidelines. The amount also includes Kshs.6,827,435 whose requisitions from user departments, programs of events or timetables of the seminars in support of the payments, were not provided for audit review.

In the circumstances, the accuracy and completeness of hospitality, supplies and services expenditure amount of Kshs.10,677,435 could not be confirmed.

57. Unsupported Payment of Insurance Costs

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,448,919,594 of which an amount of Kshs.170,895,999 was incurred on insurance costs. The amount includes staff medical insurance of Kshs.149,999,999 paid in advance without utilization monitoring mechanism being put in place. Further, the motor vehicle insurance of Kshs.10,900,000 was not supported by motor vehicle registration numbers, valuation report, premium break-down for each vehicle and policy documents. In addition, the expenditure includes an amount of Kshs.9,996,000 paid to National Health Insurance Fund to provide Social Health Cover for the elderly and people leaving with disabilities whose memorandum of agreement, list of beneficiaries, identity card numbers and amount paid for each was not provided for audit.

In the circumstances, the accuracy and completeness of insurance costs amounting to Kshs.170,895,999 could not be confirmed.

58. Unaccounted for Fuel, Oil and Lubricants Expenditure

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services of Kshs.1,448,919,594. The amount includes fuel, oil and lubricants expenditure of Kshs.96,028,485 out of which an amount of Kshs.29,500,000 was paid to service providers. However, the payments were not supported by motor vehicle work tickets, list of authorized vehicles, bulk fuel register, detailed orders and supplier's statements.

In the circumstances, the accuracy and completeness of fuel, oil and lubricants expenditure amount of Kshs.29,500,000 could not be confirmed.

59. Irregular Payments of Legal Expenses

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,448,919,594. The expenditure includes an amount of Kshs.185,385,462 incurred on other operating expenses amounting to Kshs.30,703,120 which was paid to four (4) legal firms representing the County Executive in various legal cases. However, the expenditure was not supported by approvals of the County Executive Committee and recommendation of the County Attorney. This was in breach of Section 8(1)(d) of the County Attorney Act, 2020 that requires the Attorney to issue directions to any officer performing legal functions in any department within the County Executive.

Further, the payments were not supported with relevant documentations such as initial fee note, amounts paid to date, outstanding balances (if any per case), the cases being handled and status of those cases, evidence of court attendance, fees as per Advocates Remuneration Order, 2014, statements or ledgers of advocates accounts and case files showing the value of each case to authenticate the payments.

Review of the Integrated Payroll Personnel Database system indicated that the executive had a legal officer and legal advisor to deal with legal matters. However, it was not possible to ascertain their role including why they could not represent the Executive on legal issues. In addition, County Government does not maintain legal cases register.

In the circumstances, the accuracy and completeness of legal expenses amounting to Kshs.30,703,120 could not be confirmed.

60. Undelivered Motor Vehicle

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.2,151,477,888. The amount includes purchase of motor vehicles and other transport equipment of Kshs.79,463,930 out of which an amount of Kshs.8,019,432 was incurred on the purchase of a motor vehicle. Although, the supplier had been paid the full amount, the motor vehicle had not been delivered at the time of the audit.

In the circumstances, the completeness and existence of the motor vehicle valued at Kshs.8,019,432 could not be confirmed.

61. Unsupported Payment for Office Furniture

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.2,151,477,888. The amount includes purchase of office furniture and general equipment of Kshs.50,865,464 out of which Kshs.6,713,000 was not supported by inspection and acceptance certificate, store receipt and issue vouchers, location user and serial numbers.

In the circumstances, the accuracy, completeness and existence of acquisition of assets valued at Kshs.6,713,000 could not be confirmed.

62. Unsupported Deposits and Retentions Balance

The statement of assets and liabilities and as disclosed in Note 15 to the financial statements reflects deposits and retentions balance of Kshs.55,705,587. However, the movement schedule showing opening balance, additions and payments in the year to arrive at the closing balance was not provided for audit.

In the circumstances, the accuracy and completeness of the deposits and retentions balance of Kshs.55,705,587 could not be confirmed.

63. Unsupported Pending Bills

Note 20 to the financial statements reflects pending bills amount of Kshs.4,152,618,916. However, the detailed schedule under Annex 2 was not provided for audit. Further, the statement reflects pending bills additions of Kshs.1,053,276,326 during the year under review which differed with the vote book amount of Kshs.508,529,999 comprising of recurrent vote of Kshs.140,111,413 and development vote of Kshs.368,418,586, resulting to an unreconciled variance of Kshs.544,746,327.

In the circumstances, the accuracy and completeness of the pending bills amount of Kshs.4,152,618,916 could not be confirmed.

64. Unauthorized Expenditure

The statement of receipts and payments reflects total payments of Kshs.6,402,768,835 out of which seven (7) transactions valued at Kshs.57,791,191 were paid but the specific line items had not been budgeted for in the respective appropriation account. This was in breach of Regulation 31(a) of the Public Finance Management (County Governments) Regulations, 2015 which states that all revenue and expenditure shall be entered into the County Government budget estimates.

In the circumstances, occurrence and completeness of unbudgeted payments amounting to Kshs.57,791,191 could not be confirmed.

Emphasis of Matter

65. 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.7,826,060,113 and Kshs.6,447,528,844 respectively resulting to an under-funding of Kshs.1,378,531,269 or 18% of the budget. Similarly, the County Executive

spent Kshs.6,402,768,835 against actual receipts of Kshs.6,447,528,844 resulting to an under-utilization of Kshs.44,760,009.

In the circumstances, the under-funding and under-utilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Other Matter

66. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Lawfulness and Effectiveness in the use of Public Resources and Effectiveness of Internal Controls, Risk Management and Governance. However, several issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

67. Irregularities in Human Resource Management Practices

67.1 Non-Compliance with Law on Recruitment of Persons with Disabilities

The County Executive recruited one hundred and sixty-two (162) new employees, out of which no persons with disability were recruited in breach of Section 13 of the Persons with Disabilities Act, 2003 and Paragraph B.23(2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016.

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

Review of the June, 2024 payroll indicates that the County Executive had engaged thirty-eight percent (38%) of its total employees from one community in excess of the recommended limit of thirty percent (30%) threshold. This is contrary to the provisions of the National Cohesion and Integration Act, 2008.

67.3 Violation of One-Third Rule on Basic Salary

Examination of the Integrated Payroll and Personnel Database (IPPD) revealed that three hundred and thirty-one (331) employees had salary deductions in excess of two thirds of their basic pay in breach of Section 19(3) of the Employment Act, 2007 which prohibits such excessive deductions.

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

68. Use of Goods and Services

The statement of receipts and payments and Note 4 to the financial statements reflect payments amounting to Kshs.1,448,919,594 in respect of use of goods and services. Review of the payments and other records revealed the following anomalies:

68.1 Irregular Procurement of Non-Pharmaceuticals

Included under use of goods and services is specialized materials and services expenditure amount of Kshs.232,077,346 out of which a total of Kshs.26,204,500 was incurred on purchase of non-pharmaceuticals from suppliers not registered with Pharmacy and Poisons Board. Further, no annual value-for-money assessment for framework agreements exceeding one year was carried out, professional opinion was not dated or stamped by the head of procurement and the local purchase order for non-pharmaceuticals valued at Kshs.3,973,005, was raised after the goods were supplied.

68.2 Irregular Procurement of Animal Vaccines and Drugs

Included under use of goods and services is an amount of Kshs.5,898,187 incurred on purchase of animal vaccines and drugs by the Department of Livestock from a supplier not registered with the Kenya Veterinary Vaccines Production Institute as required by the tender criteria. Further, some deliveries were made after the Local Purchase Order validity period of thirty (30) days had lapsed and, in some instances, Local Purchase Orders were raised way after the goods were supplied.

In the circumstances, the Management did not comply with the procurement process for purchase of non-pharmaceuticals amounting to Kshs.26,204,500 and purchase of animal vaccines and drugs amounting to Kshs.5,898,187.

69. Acquisition of Assets

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.2,151,477,888. Review of the payments and other records revealed the following anomalies;

69.1 Irregularities in the Construction of Tana River Aggregation and Industrial Park in Chifiri

Included under acquisition of assets is construction of buildings amount of Kshs.232,740,118 out of which Kshs.113,470,968 was incurred on the construction of Tana River County Aggregation and Industrial Park in Chifiri. The project contract sum of Kshs.489,899,000 is being co-funded by the County Executive and National Government at the rate of fifty percent (50%) each. However, the memorandum of understanding between the two (2) levels of government was not provided for audit. In addition, the National Government had not made any contribution at the close of the year under review.

Further, schedule one (1) on framework for Management of conditional allocation for establishment of county aggregation and industrial park required that the industrial park should have a minimum area of ten (10) hectares, accessible to major transport facilities with clear status of ownership and that the industrial park should have basic

facilities such as roads, electricity water and sewerage. However, the land had no title deed and the required facilities were not available even near the park site.

Further, the tender documents required bidders to provide National Construction Authority Category two (2) certificate. However, the evaluation committee inserted additional criteria requiring electrical and mechanical works category service providers to have NCA category four (4) certificate and above, which was the reason for disqualifying the lowest bidder. Equally, the project environmental impact assessment and approved drawings were not provided for audit and the project implementation committee to co-ordinate and monitor the project implementation was yet to be constituted. This was contrary to Section 151(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that for every complex and specialized procurement contract, the Accounting Officer of a procuring entity shall appoint a contract implementation team which shall include members from the procurement function, and the requisitioner, the relevant technical department and a consultant where applicable. Physical verification carried out on 8 October, 2024 established that the project was on going.

69.2 Delayed Completion of County Headquarters

A local contractor was awarded the contract for construction of the County Headquarters at an amount of Kshs.495,268,750 in the financial year 2019 with a commencement date of 18 June, 2019 and completion period of seventy-five (75) weeks. However, the Memorandum of financing between the County Executive and the National Government was set at the rate 30% and 70% of the contract sum respectively. Although, the County Executive had cumulatively paid a total of Kshs.152,541,605 exceeding its contribution by an amount of Kshs.3,960,980, the National Government had only paid a total of Kshs.117,312,669 thereby delaying the project implementation.

Further, the project implementation status report reflects total project accumulated payments totalling Kshs.269,854,275 that differ with the recomputed amount of Kshs.377,132,976 resulting to unexplained variance of Kshs.118,135,774.

The revised intergovernmental agreement dated 17 April, 2024 extended the project completion time by another three financial years from the date of the agreement. However, the extension was not recommended by the evaluation committee in breach of Section 139(2) of the Public Procurement and Asset Disposal Act, 2015, which provides that an Accounting Officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for the extension of contract period.

Equally, the project implementation committee had not been constituted in breach of Section 151(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that for every complex and specialized procurement contract, the Accounting Officer of a procuring entity shall appoint a contract implementation team which shall include members from the procurement function, and the requisitioner, the relevant technical department and a consultant where applicable.

Physical verification carried out at the time of the audit revealed that the project had stalled and the contractor was not on site.

69.3 Delayed Construction of the Deputy Governor's Residence

Included under acquisition of assets is construction of buildings expenditure amount of Kshs.232,740,118, out of which an amount of Kshs.25,489,597 was incurred on the construction of Deputy Governor's residence. The contract was awarded to a local contractor at a total sum of Kshs.39,836,215 with effect from 14 April, 2023. However, the contract was extended but the recommendation of the evaluation committee was not provided for audit. This was in breach of Section 139(2) of the Public Procurement and Asset Disposal Act, 2015, which provides that an Accounting Officer of a procuring entity, on the recommendation of an evaluation committee, may approve the request for the extension of contract period.

Further, the land ownership documents for the house site, project implementation status report together with all certificates and payments processed were not provided for audit and therefore the ownership, land acreage and current payment status could not be confirmed. Physical verification carried out on 2 October, 2024 revealed that the contractor was not on site.

69.4 Delayed Construction of Madogo Water Supply Improvement Project

Included under acquisition of assets is rehabilitation of civil works expenditure amount of Kshs.191,489,855 out of which Kshs.29,226,210 was incurred on construction of water supply improvement in Madogo ward with effect from 26 February, 2024 for a period of 180 days or six (6) months. The contract was awarded to local contractor at a sum of Kshs.34,300,000. The completion date was extended to 26 August, 2024, and the works remained incomplete as at the time of audit.

69.5 Delayed Construction of Kamudhe - Dukanotu Cluster Water Project

Included under acquisition of assets is rehabilitation of civil works expenditure amount of Kshs.191,489,855, out of which an amount of Kshs.9,675,600 was incurred on construction of Kamudhe-Dukanotu cluster water project with effect from 26 February, 2024 for a period of 180 days or six (6) months. The contract was awarded to a local contractor at total sum of Kshs.10,000,000. Although the contract period was extended to 26 August, 2024, the works remained incomplete at the time of audit.

69.6 Irregular Procurement of Rehabilitation of B89-Sera Road in Garsen North Ward

Included under acquisition of assets is an amount of Kshs.191,489,855 incurred on rehabilitation of civil works out of which an amount of Kshs.17,209,040 was applied on the rehabilitation of B89-Sera Road in Garsen North Ward. However, records provided for audit indicated that although the tender opening minutes were signed by the three committee members, they did not initialize all pages. Further, the contract agreement was signed before the lapse of fourteen days mandatory award notification period in breach of Section 135(3) of the Public Procurement and Asset Disposal Act, 2015. In addition, project completion date was not indicated in the agreement and the inspection and acceptance certificate, original bills of quantities and project implementation status report including all itemized payments were not provided for audit. Similarly, the performance security was not given by the contractor.

69.7 Irregular Procurement of Rehabilitation of JCT B89-Makere Road at Kinakomba Ward

Included under acquisition of assets is an amount of Kshs.191,489,855 incurred on rehabilitation of civil works out of which an amount of Kshs.7,85,253 applied on the rehabilitation of JCT B89-Makere Road at Kinakomba Ward at a cost of Kshs.14,573,196. However, records provided for audit indicated that the tender opening minutes were signed by the three committee members but did not initialize all pages. Further, the contract agreement was signed before the lapse of fourteen days mandatory award notification period in breach of Section 135(3) of the Public Procurement and Asset Disposal Act, 2015. In addition, project completion date was not indicated in the agreement and the inspection and acceptance certificate, original bills of quantities and project implementation status report including all itemized payments were not provided for audit. Further, the performance security was not given by the contractor.

69.8 Uninstalled Medical Equipment

Included under acquisition of assets is an amount of Kshs.126,317,088 incurred on specialized plant, equipment and machinery out of which an amount of Kshs.84,913,536 was used to purchase specialized equipment to equip Hola Level Four (4) Hospital. The equipment was delivered on 31 May, 2024 and paid for on 8 July, 2024. Physical verification carried out on 9 October, 2024 revealed that equipment valued at Kshs.73,376,300 were kept in boxes awaiting construction of building and therefore not in use.

69.9 Supply, Installation and Testing of Solar Street Lights in Hola Town

Included under acquisition of assets is construction of civil works amount of Kshs.218,528,321 out of which an amount of Kshs.9,978,879 was incurred on the supply, installation and testing of solar street lights in Hola Town. However, physical verification carried out established that the market centers received inadequate number of solar street light that may not enhance security as intended. Further, the project cost provisional sum of Kshs.500,000 was utilized without approval from the Accounting Officer. In addition, the 4G surveillance cameras installed relied on network connectivity, however, no contracts with the service providers were provided for audit to indicate how the connectivity problem had been mitigated by Management.

Further, the smartphones used for surveillance software were not compatible with various devices, and updates and therefore may not meet the project objectives. Additionally, Management did not indicate how Data Protection Act was complied with in respect to collection, processing, storage, and use of the information collected through surveillance cameras.

69.10 Stalled Construction of Early Childhood Development Centre at Chamwanamuma at Kipini West Ward

Included under acquisition of assets is an amount of Kshs.232,740,118 incurred on construction of buildings out of which an amount of Kshs.1,682,696 was used for the construction of Early Childhood Development Center at Chamwanamuma in Kipini at a cost of Kshs.4,099,125 with effect from 26 July, 2020 for a period of 120 days or 3 months. Although an amount of Kshs.1,682,696 was paid during the financial year

under review, no project file indicating the works certified, certificates issued and paid together with project implementation report was provided for audit. Further, no project contract extension was provided in support of the amount paid as the contract had expired.

69.11 Irregular Procurement of Consultancy Services

Included under acquisition of assets is an amount of Kshs.51,684,857 incurred on research studies out of which an amount of Kshs.26,500,000 was spent on consultancy services for the boundary survey and registration of two (2) community lands in Tana River County, namely Wayu Daba and Gwano, by a consultant at a contract sum of Kshs.33,999,300. Payment totalling Kshs.26,500,000 was made on 18 December, 2023. However, the consultancy report was not provided for audit and there was no evidence that the service provider was a licensed land surveyor with a valid practicing certificate from the Kenya Land Surveyors Board, which was one of the evaluation criteria. Further, the service provider did not demonstrate the required ten-year experience in similar work, as stipulated by the tender evaluation criteria. In addition, the Department of Lands and Physical Planning did not prepare Terms of Reference outlining performance benchmarks, milestones, activities, and timelines for the consultancy services, contrary to Section 117(b) of the Public Procurement and Asset Disposal Act, 2015.

In addition, the work would have been done at a reasonable cost by the county staff, Ministry of Lands and Housing or the National Land Commission. As at the time of audit, the survey remained incomplete.

69.12 Procurement of Consultancy Services

Included under acquisition of assets is research studies expenditure amount of Kshs.51,684,857 out of which an amount of Kshs.10,300,000 was incurred on consultancy services for the preparation of a land use advisory plan at Sala, Mwina, and Sumai Cluster. However, the consultancy inception or final report was not provided for audit and therefore the basis of payment was unclear.

Further, the Department of Lands and Physical Planning did not prepare Terms of Reference outlining performance benchmarks, milestones, activities, and timelines for the consultancy services, contrary to Section 117(b) of the Public Procurement and Asset Disposal Act, 2015.

In addition, the work would have been done at a reasonable cost by the County staff, Ministry of Lands and Housing or the National Land Commission. As at the time of audit the survey remained uncompleted.

In the circumstances, Management was in breach of the law and value for money could not be confirmed.

70. Non-Submission of Financial Statements for Level Four Hospitals

The County Executive and Management of the three (3) Level four (4) Hospitals in Tana River County namely Hola, Ngao and Bura Sub-County Hospitals were required to prepare and submit annual financial statements for audit in accordance with the Public Sector Accounting Standards Board requirement and Section 164 of the Public

Finance Management Act, 2012. However, the financial statements were not prepared and submitted to the Office of the Auditor-General.

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

71. Failure to Pay Pending Bills as First Charge

The pending bills as at 30 June, 2024 totalled Kshs.4,152,618,916. This included an amount of Kshs.4,128,424,305 in respect of balance brought forward from the previous financial years which did not form a first charge on the County Revenue Fund. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires debt service payments to be a first charge on the County Revenue Fund and that the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations.

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

72. Long Outstanding Imprests

The statement of assets and liabilities reflects outstanding imprests balance of Kshs.19,890,396 out of which an amount of Kshs.10,066,200 related to un-surrendered imprests issued in the previous financial year. No explanation was provided for failure to clear the long outstanding imprest balances. At the same time, no action to recover this amount from payroll was initiated. This was contrary to Regulation 93(5) and (6) of the Public Finance Management (County Governments) Regulations, 2015 which requires temporary imprest to be accounted for or surrendered within seven (7) working days or recovered from payroll with interest at the prevailing Central Bank Rate.

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

73. Budget Variations above Threshold

Review of the approved budget revealed that expenditure items amounting to Kshs.2,737,038,922 were adjusted in excess of ten (10%) percent limit contrary to regulation 39(9) of the Public Finance Management (County Governments) Regulations, 2015 which states that in approving estimates under Sections 135 and 154 of the Act, that County Assembly shall not exceed ten (10%) percent of the approved budget estimates of a program of sub-vote unless it is for unforeseen and unavoidable need as defined in Section 112 of the Act.

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

74. Incomplete Project Implementation Status Report

The County Executive disclosed under the statement of performance against County predetermined objectives a number of key projects and their corresponding completion status. However, the County Executive did not provide a complete Project Implementation Status Report (PIS) for all the projects undertaken to confirm the status of all the reported projects in the year under review.

In the circumstances, it was not possible to confirm the activeness of targets contained in the statement of performance against county predetermined objectives as reported in the financial statement.

75. Avoidable Tax Penalties and Arrears

The statements of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets amount of Kshs.2,151,477,888. The amount includes other domestic account payables amounting to Kshs.1,029,081,715 out of which an amount of Kshs.176,312,278 are payments for outstanding tax arrears to Kenya Revenue Authority. However, the tax arrears resulted in penalties amount of Kshs.83,060,721 and interest amount of Kshs.92,713,992 which were avoidable.

In the circumstances, the value for money on the penalties and interest payments amount of Kshs.175,774,713 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

76. Incomplete Assets Register

The asset register provided for audit did not include assets procured during the year including HDU equipment amount of Kshs.84,913,536, Dehuller machines totalling Kshs.23,566,551 and Motor vehicles amount of Kshs.79,463,930 in breach of Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to maintain a register of assets under his or her control or possession that is accurate and complete.

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

77. Lack of Risk Management Policy

Review of the internal controls of the County Executive revealed that the Management had not developed a risk management policy and there were no fraud prevention mechanisms put in place. Further, operational and disaster recovery plans were also not provided. This was contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations, 2015 that require the Accounting Officer to develop risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control that builds robust business operations.

In the circumstances, Management was not in a position to identify risks, rank them and allocate adequate resources to mitigate them.

78. Failure to Implement Audit Recommendations

Records provided for audit revealed that the County Senate Public Accounts and Investment Committee (CPAIC) had deliberated on the Auditor-General's reports for County Executive for the financial years 2019/2020 and 2020/2021. However, the Senate recommendations had not been formally received by the Management and as such no recommendations had been implemented.

Further, the Management did not provide an implementation matrix for External and Internal Audit reports for the same period.

In the circumstances, Management was not able to track resolved and unresolved outstanding matters due lack of an audit report recommendation implementation matrix.

79. Poor Management and Storage of Drugs at Hola Level Four Hospital

Audit verification of the pharmacy store at Hola Level Four Hospital carried out on 9 October, 2024 revealed that expired drugs of unknown value dating as far back as financial year 2015 were yet to be disposed of, posing environmental and health risks due to the decomposition of chemical components. Further, the health facility lacked an electronic system, processes, and procedures for maintaining drug inventories. The manual bin card records in use were found to be incomplete, making the tracking, movement, and monitoring of drug conditions ineffective. In addition, drugs were stored in a dusty and non-ventilated area, which could lead to moisture build-up, resulting in mold, mildew, and degradation of packaging.

In the circumstances, the drugs management system at the hospital facility was not effective thereby exposing the facility to losses.

80. Weakness in Accounting of Standing Imprests

Records provided for audit revealed that temporary imprest of Kshs.166,095,656 was issued to various members of staff during the year under review out of which an amount of Kshs.7,225,000 was in respect of office operations standing imprest in various Departments. However, a detailed ledger/cashbook indicating receipts and payments in respect of the standing imprest were not maintained.

In the circumstances, use of office standing imprests in various departments during the year was not effectively managed.

COUNTY EXECUTIVE OF LAMU – NO.5

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

81. Inaccuracies in the Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.391,897,910 as disclosed in Note 13A of the financial statements all of which relates to bank balances. The balance is held in twenty-four (24) bank accounts. However, the balance includes an amount of Kshs.286,853,571 held in eight (8) bank accounts relating to fuel levy, conditional grants and special purpose accounts all of which are self-reporting and prepare separate financial statements.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.391,897,910 could not be confirmed.

82. Long Outstanding Deposits and Retention Balance

The statement of assets and liabilities and Note 15 to the financial statements reflect a balance of Kshs.100,725,007 in respect of deposits and retentions. Included in the balance is an amount of Kshs.93,087,410 in respect of deposits out of which an amount of Kshs.45,024,514 relates to deposits outstanding for prior periods of between one (1) year and three (3) years, including a balance of Kshs.7,637,597 unpaid gratuity which has been outstanding for over three (3) years. Further, the retention registers and list of persons whose gratuity amounts are outstanding reflects a balance of Kshs.115,838,156 resulting to an unexplained variance of Kshs.15,113,149.

In the circumstances, the accuracy and completeness of the deposits and retention balance of Kshs.100,725,007 could not be confirmed.

83. Misclassification of Payments on Other Grants and Transfers

The statement of receipts and payments as disclosed in Note 7 reflects an amount of Kshs.127,382,478 in respect of other grants and transfers. Review of records revealed that the County Government allocated an amount of Kshs.104,108,574 for Financing Locally-Led Climate Action (FLLoCA) Programs while an amount of Kshs.17,637,689 was actually paid out for the same. However, the amount was budgeted and appropriated under recurrent sub vote and charged to information, communication and E-government department, instead of being charged under other grants and transfers.

In the circumstances, the accuracy and completeness of other grants and transfers amount of Kshs.127,382,478 could not be confirmed.

84. Overstatement of Receipts

The statement of receipts and payments as disclosed in Note 1 to the financial statements reflects transfers from County Revenue Fund (CRF) amount of

Kshs.3,447,419,685. However, Exchequer releases totalling Kshs.715,569,720 were received after 30 June, 2024 out of which transfers totalling Kshs.685,971,663 was received on 2 July, 2024 while Kshs.29,598,057 was received on 5 July, 2024 but were accounted for in the year under review.

In the circumstances, the accuracy of the transfer from County Revenue Fund of Kshs.3,447,419,685 could not be confirmed.

85. Inaccuracies in the Financial Statements

Review of the financial statements and Integrated Financial Management Information System (IFMIS) revealed variances as indicated below:

85.1 Variances between the Statement of Assets and Liabilities and IFMIS

Item	Statement of Assets and Liabilities (Kshs)	IFMIS (Kshs)	Variance (Kshs)
Bank Balances	391,897,910	842,158,519	450,260,609
Cash Balances	-	7,702,307,729	7,702,307,729
Outstanding Imprests and Advances	-	27,342,539	27,342,539
Deposits and Retention	100,725,007	5,578,003,766	5,477,278,759
Fund Balance b/fwd	76,072,170	2,993,805,022	2,917,732,852
Prior year Adjustments	(11,751,217)	-	11,751,217
Surplus/Deficit for the year	226,851,950	264,009,562	37,157,612

85.2 Variances between the Statement of Cashflows and IFMIS Reports

Item	Statement of Cash Flows (Kshs)	IFMIS (Kshs)	Variance (Kshs)
Transfers to Other Government Units	(116,143,266)	(78,985,654)	37,157,612
Prior year Adjustment	(11,751,217)	1,165,817,678	1,154,066,461
decrease in Deposits and Retention	8,404,485	0	8,404,485
Net Cash Flow from Operating Activities	887,357,887	2,093,679,908	1,199,630,558
Net increase in Cash and Cash Equivalents	223,505,219	1,429,827,240	1,206,322,021
Cash and Cash Equivalents at Beginning of the year	168,392,692	7,114,639,009	6,976,246,317
Cash and Cash Equivalents at end of the year	391,897,911	8,544,466,249	8,162,568,338

Although Management explained that the variances arose due to differences in the opening balances, no reconciliation has been carried out.

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

86. Inaccuracies in the Acquisition of Assets Amount

The statement of receipts and payments reflects acquisition of assets amount of Kshs.663,852,668 as disclosed in Note 9 to the financial statements. However, Annex 6 to the financial statements on summary of non-current assets register reflects additions during the year amounting to Kshs.221,330,692. In addition, review of the assets' register revealed unexplained variances between asset balances and corresponding disclosure in the summary as indicated below:

Asset Class	Financial Statements - Annex 6 (Kshs)	Assets Register (Kshs)	Variance (Kshs)
Land	-	36,775,900	36,775,900
Buildings and Structures	1,743,926,348	968,323,682	775,602,666
Transport Equipment	233,852,553	288,123,952	54,271,399
Office Equipment	287,318,557	18,306,895	269,011,662
ICT Equipment	-	55,603,201	55,603,201
Machinery and Equipment	214,741,968	-	214,741,968
Biological Assets	173,885,169	-	173,885,169

Further, review of the asset register revealed that the County owns twenty (20) parcels of land without ownership documents and whose estimated value has not been provided.

In the circumstances, the accuracy and completeness of the acquisition of assets amount of Kshs.663,852,668 could not be confirmed.

Emphasis of Matter

87. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (Recurrent and Development combined) reflects final receipts budget and actual on a comparable basis of Kshs.3,951,337,952 and Kshs.3,469,572,977 respectively resulting to an under-funding of Kshs.481,764,975 or 12% of the budget. Similarly, the County Executive made payments totalling Kshs.3,220,567,734 against actual receipts of Kshs.3,469,572,977 resulting in an under-performance of Kshs.249,005,242 or 7% of the actual receipts.

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

88. Late Exchequer Releases

The statement of receipts and payments reflects total receipts of Kshs.3,447,419,685 in respect of transfers from the County Revenue Fund (CRF) and as disclosed in Note

1 to the financial statements. Review of the CRF bank statements revealed receipts totalling Kshs.716,219,255 were received near or after the closure of the financial year.

This meant that 21% of all the County Executive's receipts were received near the closure of the year and this may have negatively impacted on service delivery. There is need for The National Treasury to release the Exchequers in good time for effective implementation of budgeted activities and programs.

89. Failure to Clear Long Outstanding Pending Bills

Note 20 on other important disclosures reflects a balance of Kshs.49,122,593 in respect of pending accounts payable. Included in this balance is Kshs.9,588,029 relating to pending bills incurred during the year while an amount of Kshs.29,665,463 is indicated as having been cleared during the year under review leaving a balance of Kshs.49,122,593 out of which Kshs.39,534,564 relate to balance outstanding as at 30 June, 2023 and which should have been paid as a first charge in line with provisions of Regulation 41 (2) of the Public Finance Management (County Governments) Regulations, 2015. Even though Management acknowledge that the pending bills are due to their ineligibility that stems from missing or incomplete documentation, the County Executive risks incurring additional losses in form of interest and penalties arising from continued delay in the settlement of the bills. In addition, failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

90. Unresolved Prior Year Matters

In the previous audit report several issues were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resource and Report on Effectiveness of Internal Control, Risk Management and Governance. However, although the Management indicated that some of the issues had been resolved and mechanisms put in place to resolve those outstanding, evidence of resolution was not provided as a result of which the matters remained unresolved as at 30 June, 2024.

91. Project Implementation Status on Acquisition of Assets

The 2023-2024 Annual Development Plan (ADP) prepared in February, 2023 indicated that one hundred and twenty-four (124) projects were lined up for implementation worth Kshs.1,492,820,000. However, the project implementation status indicates that one hundred and forty-six (146) projects worth Kshs.790,262,423 were implemented out of the one hundred and eighty-six (186) projects earmarked for implementation worth Kshs.1,422,550,007. The details are as indicated below:

Department	Annual Development Plan (ADP)	Project Status	
		Estimates	Actual
County Executive	10	4	2
Finance	2	2	2
Agriculture and Food Security	14	12	10
Lands	5	16	14
Water and Energy	9	22	15
Education and Vocational Training	13	31	14
Medical Services	20	42	37
Trade and Tourism	5	12	11
Fisheries and Blue Economy, Livestock and Cooperatives	18	13	10
Public Works and Infrastructure	12	17	17
Lamu Municipality	9	8	8
Devolution, Disaster Management and Resource Mobilization	0	2	2
Public Health	7	5	4
Total Projects	124	186	146
Total Amounts (Kshs)	1,492,820,000	1,422,550,007	790,262,423

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

92. Compensation of Employees

The statement of receipts and payments reflects payments in respect of compensation of employees totalling Kshs.1,593,862,717 as disclosed in Note 3 to the financial statements. Review of records revealed the following:

92.1 Failure to Adhere to Fiscal Responsibility Principles on Wage Bill

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects total payments budget for compensation of employees of Kshs.1,594,909,387, while the total revenue budget was Kshs.4,131,337,952 out of which an amount of Kshs.3,951,337,952 was in respect of equitable share while an amount of Kshs.180,000,000 was from own source revenue. The budget on compensation of employees was 39% of the total revenue contrary to Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the County Government's expenditure on wages and benefits for its public officers should not exceed thirty-five percent (35%) of the County Government's total revenue.

92.2 Payment of Salaries Outside the Integrated Payroll and Personnel Database (IPPD)

Review of the payroll records during the year under review revealed that Management processed and paid salaries to staff outside the IPPD payroll system which Management acknowledged was due to delay by Directorate of Public Service Management (DPM) to issue new personal numbers upon request by the County.

92.3 Non-Competitive Hiring of Interns

During the year under review, Management made payments totalling Kshs.900,000 to nine (9) interns from July, 2023 to March, 2024. However, the needs assessment report and requisition from the departments, notices, applications, interview report and approval by the County Public Service Board were not provided for audit contrary to the Circular reference number PSC/ADM/14/V/105 issued by the Public Service Commission on 13 October, 2016. In addition, the circular provides that holders of at least Bachelor's Degree from a recognized university get an amount of Kshs.25,000 per month and Kshs.4,000 as Daily Subsistence Allowance (DSA) whenever the intern is required to undertake official assignments outside the assigned duty station. However, review of Human Resource records indicated that interns were on the payroll, but they were receiving less monthly stipend than the amount provided for in the circular. Management indicated that the program was terminated due to budgetary issues and policy issues as a result of which the program was found unsustainable.

92.4 Non-Compliance with Law on Mandatory Retirement Age

Review of the Integrated Payroll and Personnel Database (IPPD) for June, 2024 Payroll, revealed that four (4) officers who had attained the mandatory retirement age of sixty (60) years were still in service as at 30 June, 2024 contrary the County Government of Lamu Human Resource Policies and Procedures Manual, April, 2017, which states that all officers shall retire from the Service on attaining the mandatory retirement age of sixty (60) years, sixty-five (65) years for persons with disabilities and or may be prescribed by the Government from time to time. The officers were paid emoluments totalling Kshs.3,559,416 in the year under review. Management indicated that they had been retained due to the rare knowledge, skills and competencies that are scarce, unique and not readily available in the job market. However, the details of these skills were not provided.

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

93. Procurement Irregularities in the use of Goods and Services Expenditure

The statement of receipts and payments as disclosed in Note 4 to the financial statements reflects use of goods and services totalling Kshs.635,385,335. The following procurement irregularities were noted:

93.1 Procurement of Fuel, Oil and Lubricants

Included in the amount for use of goods and services are payments totalling Kshs.81,594,900 in respect of fuel, oil and lubricants procured by use of quotations by the various departments. The payments were made to only two (2) companies of the thirty-nine (39) prequalified suppliers under the category contrary to Regulation 91 (5) of the Public Procurement and Asset Disposals Regulations, 2020 which provides that

an Accounting Officer shall ensure a fair and equitable rotation amongst the persons on the list under Sections 57, 71 and 106 of the Act and these Regulations. In addition, evidence that the departments have been registered as procuring entities and have a procurement function was not provided contrary to Regulation 54 of the Public Procurement and Asset Disposal Regulations, 2020 which states that The National Treasury shall ensure that all procuring entities are registered into the e-procurement system and that they have their respective facilities to carry out different activities of initiating the procurement process, annual procurement plan preparation, procurement document preparation, evaluation, professional opinion, contract award, contract management, internal procurement process, workflow management, tracking payments, deliverables and other processes through the available features and modules of the e-procurement system.

93.2 Procurement of Food Stuffs

The amount for use of goods and services includes payments totalling Kshs.136,682,249 on specialized materials and services out of which payments totalling Kshs.15,708,279 was in respect of purchase of food stuffs. The food stuffs were procured by the various hospitals through use of quotations. Similarly, no evidence was provided indicating that the entities have been registered as procuring entities and have a procurement function contrary to Regulation 54 of the Public Procurement and Asset Disposal Regulations, 2020.

93.3 Procurement of Consultancy Services

The amount for use of goods and services reflects payments totalling Kshs.78,846,374 in respect of other operating expenses (including bank charges) out of which an amount of Kshs.66,718,344 was paid in respect of consultancy services to eleven (11) firms for planning, survey and regularization of farms, trading centres and towns. A further amount of Kshs.5,933,942 was paid to an individual for preparation of a draft GIS based valuation roll for Lamu County (60% reports). However, the approved procurement plan was not specific on which projects were to be pursued in that financial year, the terms of reference of guiding the procurement did not specify the deliverables and basis of partial acceptance and an inspection and acceptance certificate in support of a payments were not provided. This was contrary to Section 53 (1) of the Public Procurement and Asset Disposal Act, 2015 which provides that all procurement by State organs and public entities are subject to the rules and principles of this Act and that an Accounting Officer shall prepare an annual procurement plan which is realistic in a format set out in the Regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process. In addition, the specific parcels of farms, GIS based valuation roll and other reports have not been provided for review.

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

94. Irregular Payment of Subscription Fees to County Public Service Board National Consultative Forum

The statement of receipts and payments as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.635,385,335 which includes payments totalling Kshs.78,846,374 in respect of other operating expenses, out of which an amount of Kshs.597,000 was paid to County Public Service Board (CSPB) National Consultative Forum being annual subscription. However, the

authority upon which the payment was made was not provided contrary to Section 149 (1) of the Public Finance Management Act, 2012 which states that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized, effective, efficient, economical and transparent.

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

95. Irregular Payments to Council of Governors and Frontier Counties

The statement of receipts and payments reflects payments totalling Kshs.116,143,266 in respect of other current transfers, grants and subsidies and as disclosed in Note 6 to the financial statements. Included in these payments is an amount of Kshs.4,000,000 made to the Council of Governors and the Frontier Counties Development Council Limited each of which received an amount of Kshs.2,000,000 for subscription fees. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

96. Payment of Scholarships Outside the Mandate of the County Government

The statement of receipts and payments as disclosed in Note 7 to the financial statements reflects payments totalling Kshs.127,382,478 in respect of other grants and transfers which includes an amount of Kshs.126,977,782 in respect of scholarships and other educational benefits paid as grant transfer for the purpose of issuance of bursary and scholarship, to fund other education activities. However, contrary to the Fourth Schedule (Article 185 (2), 186 (1) and 187 (2)) on distribution of functions between the National Government and the County Governments, Part 2 under Paragraph 9 the County Governments are responsible for pre-primary education, village polytechnics, homecraft centres and childcare facilities. The activities funded by the County Executive including provision of bursaries to needy students in Secondary Schools, Colleges and Universities fall under the mandate of National Government.

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

97. Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.663,852,668 as disclosed in Note 9 to the financial statements. Review of documents revealed the following:

97.1 Delayed Road Construction Project

Included in these payments are amounts totalling Kshs.109,668,106 in respect of construction of roads out of which an amount of Kshs.10,501,355 was paid to a local contractor for cabro paving of access road at Mpeketoni Market whose contract sum was Kshs.11,701,962. The contract was signed on 4 April, 2024. Physical verification exercise revealed that the access road projects were not completed required and the

contractor had left the site. Even though Management acknowledges the slow implementation of the project due to slow pace of the contractor and indicate that the contractor had resumed the works and committed to clear by 31 October, 2024, the proof of completion of the works was not provided audit.

97.2 Construction and Civil Works

Included in the amount for acquisition of assets are payments totalling Kshs.265,596,445 in respect of construction and civil works. Review of documents revealed the following:

97.2.1 Delay in Completion of Pipeline Extension Works at Mokowe

Payments totalling Kshs.14,793,542 were made in respect to construction of Mokowe pipeline extension works awarded to a local company for rehabilitation services and installation of specialized items. The contract was signed on 11 October, 2023 for a duration of sixteen (16) weeks. However, project verification conducted on 2 October, 2024, revealed that the project was incomplete and the contractor was not on site. Management attributed the delay to heavy rains experienced in 2023 and the complexity of the rehabilitation works.

97.2.2 Dormant Manda Yawi-Raskitau Water Project

Management engaged a local company for the rehabilitation of Manda Yawi-Raskitau Water Project at a negotiated cost of Kshs.14,978,117. The contract works included construction of 4.8 Km pipeline (including undersea), rehabilitation of existing water kiosks, testing and commissioning as itemized in the Bill of Quantities. The contract was signed on 27 October, 2023 with a completion period of four (4) months. However, project verification conducted on 2 October, 2024, revealed that although the defect liability period of six (6) months (ending 27 August, 2024) was over and the retention monies due, the project was not yet operational, and had not served its intended purpose. Management attributed the failure to operationalize the project to the vandalism of wells.

97.2.3 Irregular Variations of Contract on Construction Works for Faza Desalination Plant

Management paid an amount of Kshs.7,527,386 during the year under review in respect of Faza desalination plant out of which Kshs.3,971,393 was in respect of price variations. Review of the documents provided for audit revealed that the County awarded the contract for supplying, delivery and installation of a plant house to a local firm in 2021/2022 financial year. However, minutes of the tender awarding authority recommending approval for price variations were not provided for audit review. This was contrary to Section 139(1) and (4) of the Public Procurement and Asset Disposal Act, 2015 which provides that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity and the price variation is based on the prevailing consumer price index obtained from Kenya National Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya. In addition, a field verification carried out on 7 October, 2024 revealed that the project was not operational. Management attributed the failure to provide minutes to oversight during the audit.

97.3 Delay in the Construction of the Governor's Residence

Included in this amount are payments totalling Kshs.82,741,590 in respect to construction of buildings out of which an amount of Kshs.13,499,920 was paid to a construction company for the construction of the Governor's Residence. As previously reported, the project file revealed that a Memorandum of Understanding between County Government of Lamu and National Government was signed on 31 March, 2021 allocating two (2) acres of land for the works and the contract for the construction of the residence was signed on 16 February, 2023 for a contract sum of Kshs.44,090,374 with a completion period of twelve (12) months. Further, the contract completion period was extended to 1 March, 2024. Physical verification of the project carried out on 7 October, 2024 revealed that the project was still incomplete. Delay in project implementation may be an indication of ineffectiveness in management of public resources and prolonged completion of the project may lead to unnecessary additional costs due to inflation.

97.4 Stalled Construction of Lamu County Headquarters

As previously reported, Management entered into contract to construct the County Headquarters at Mokowe on 24 June, 2019 at a contract sum of Kshs.126,823,550 and was to run for two (2) years up to 24 June, 2021. In the Memorandum of Understanding (MOU) entered into with the State Department for Public Works in January, 2021, the County was to fund 30% of the cost of the project and National Government to fund the balance of 70%. According to payment records, the County had made payments totalling Kshs.31,987,330 while the National Government had paid Kshs.11,079,962 which translates to total payments of Kshs.43,067,292 or 34% of the contract sum. However, physical verification of the project carried out in October, 2024 revealed that the contractor requested and obtained an extension of project contract period to 2 November, 2023. However, no additional works had been done during the extension period. Management did not also set aside funds in its budget estimates for implementation of the project, and no additional funding to the project was received from the National Government during the year under review.

97.5 Delay in Completion of Faza Sub-County Headquarters

Included in the payments on construction of buildings totalling Kshs.82,741,590 is an amount of Kshs.48,365,894 paid to a contractor for the construction of the Faza Sub-County Headquarters. Review of the project file revealed that the Management signed a contract agreement with on 23 January, 2023 for a contract sum of Kshs.195,219,070 and a contract completion period of twelve (12) months. Further, a Memorandum of Understanding between the National Government and the County Government indicated that the cost of the project was to be shared in the ratio of 7 to 3 between the National and County Governments. However, a field verification conducted on 7 October, 2024 revealed the project was incomplete.

97.6 Procurement Anomalies on the Purchase of Computers, Laptops, Printers and Photocopiers

The statement of receipts and payments as disclosed in Note 9 to the financial statements reflects payments on acquisition of assets totalling Kshs.663,852,668 which includes payments totalling Kshs.19,778,928 on purchase of office furniture and general equipment. Included in this expenditure is an amount of Kshs.5,844,150 for

the purchase of computer desk tops, laptops, printers and photocopiers. However, the procurement documents were not clear on the specifications of the computers and laptops contrary to Section 60 (1) of the Public Procurement and Asset Disposal Act, 2015 which provides that an Accounting Officer of a procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings.

In addition, the suppliers' delivery notes did not indicate, the model/brand, serial numbers of the computers supplied. Similarly, the inspection and acceptance committees' reports did not indicate the type of computer models and their serial numbers contrary to the provisions of Section 48(3) of the Act that provides that the Inspection and Acceptance Committee shall immediately after the delivery of the goods, works or services inspect and where necessary, test the goods received; inspect and review the goods, works or services to ensure compliance with the terms and specifications of the contract. A distribution list of all the electronic items purchased was not provided and evidence of the inclusion of these items in the asset register was not provided.

97.7 Irregular Procurement of Certified Seeds, Breeding Stock and Live Animals

The statement of receipts and payments reflects payments totalling Kshs.663,852,668 in respect of acquisition of assets as disclosed in Note 9 to the financial statements, which includes payments is an amount of Kshs.31,933,528 in respect of purchase of certified seeds, breeding stock and live animals. However, the process of registration of farmers and their acreage at the County Government level had not been documented to justify the distribution of the seeds to each beneficiary. Management avers that the process of registration of farmers was done in September, 2023 through the National Government Food System Resilience Program (FSRP) coordinated by the FSRP County Co-ordinator to recruit 20,254 farmers across the County and the data was hosted by the Kenya Integrated Agricultural Management Information System (KIAMIS) database. The FSRP is a Government of Kenya Project focusing on ensuring food security and building resilience to complement and build on other interventions by the World Bank that support the Government's current Bottom Up Economic Transformation Agenda (BETA) and implemented under the State Department of Crops Development and Agricultural Research (SDC & AR), Ministry of Agriculture and Livestock Development (MoALD). Integration and coordination between the two (2) levels of Government has not been provided.

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

98. Non-Compliance with the Law on the Establishment of the Office of County Attorney

Section 4 of the Office of the County Attorney Act, 2020 requires each County to establish the Office of the County Attorney, which is an office in the County Public Service. However, and as previously reported, Management has not appointed the County Attorney and other officers which was attributed to lack of financial resources. The legal department does not have the capacity to offer legal advice and the County is likely to incur avoidable and exorbitant legal charges.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

99. Understaffing of Internal Audit Unit

Review of Lamu County Government Internal Audit manual provided for audit revealed that, Internal Audit department should have eight (8) officers headed by head of internal audit. However, the department only had two (2) officers headed by internal auditor who had been in acting capacity for a period of two (2) years. Further, review of the audit staff personal files revealed that the two (2) staff members were employed as internal auditor while the county staff establishment does not have the position. In addition, the unit could not perform all the audits for the year under review as per the internal audit work plan due to understaffing.

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

100. Grounded Motor Vehicles and Transport Equipment

As previously reported, physical verification of the County assets revealed, fifty-one (51) motor vehicles, seven (7) tractors, thirteen (13) motor boats, three (3) tuk tuks and thirteen motor cycles that were grounded.

Management did not provide measures put in place for ensuring that the grounded vehicles were repaired or disposed off to prevent further loss. In addition, the Management did not prepare an annual assets disposal plan.

In the circumstances, the effectiveness of the asset management system in place could not be confirmed.

COUNTY EXECUTIVE OF TAITA/TAVETA – NO.6

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

101. Variances in Transfer to Other Government Entities

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflect Kshs.779,457,444 as transfers to other Government entities. Included in the transfers amount are transfers from the County Executive amounts of Kshs.373,103,336 and Kshs.79,696,527 to Tavevo Water and Sanitation Company Limited and Level 4 Hospitals while the respective institutions financial statements reflected amounts of Kshs.148,006,875 and Kshs.900,000, resulting to unexplained variances of Kshs.225,096,461 and Kshs.78,796,527 respectively.

In the circumstances, the accuracy and completeness of the transfer to other Government entities of Kshs.779,457,444 could not be confirmed.

102. Transactions in System Payments but not Processed in Payment Details

The statement of receipts and payments reflects total payments amount of Kshs.5,007,872,796. However, analysis of the System Payment Reports processed against payments made revealed that there were forty (40) transactions amounting to Kshs.77,553,567 that were paid but not captured in the IFMIS Payment Details Report as at 30 June, 2024. Voided payment vouchers, requests to void transactions, Further, The National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit. No reason was provided for the omission of transactions totalling Kshs.77,553,567 from the payment details.

In the circumstances, the accuracy and completeness of payments totalling Kshs.5,007,872,796 could not be confirmed.

103. Misclassification of Expenditure - Fuel, Oil and Lubricants

Note 9 to the financial statements reflects acquisition of assets amount of Kshs.228,228,347 out of which an amount of Kshs.1,300,000 was misclassified expenditure incurred on fuel, oil and lubricants instead of being charged under use of goods and services.

In the circumstances, the accuracy and completeness of acquisition of assets of Kshs.228,228,347 could not be confirmed.

104. Unexplained Variances on Statutory Contributions

The statement of receipts and payments reflects compensation of employees of Kshs.2,661,985,420. Review of human resource records revealed that the County Executive deducted National Health Insurance Fund (NHIF) and National Social Security Fund (NSSF) employee contributions totalling Kshs.45,333,700 and Kshs.60,694,320 respectively. However, third party confirmation from NHIF and NSSF showed that the total amount remitted as employee contribution was Kshs.45,259,450 and Kshs.49,765,920 resulting to an unexplained variance of

Kshs.74,250 and Kshs.10,928,400 respectively as unremitted deductions. Further, Management did not remit the NHIF matching employer contribution of Kshs.45,333,700 as required by Section 15(2)(d) of the NHIF Act, 2022.

In the circumstances, the completeness and accuracy of the compensation of employees of Kshs.2,661,985,420 could not be confirmed.

105. Unsupported Expenditure

105.1 Purchase of Certified Seeds, Breeding Stock and Live Animals

The statement of receipts and payments reflects acquisition of assets amount of Kshs.228,228,347 which includes expenditure for purchase of certified seeds, breeding stock and live animals amount of Kshs.17,286,598. Included in the amount is an expenditure of Kshs.599,600 in respect of the supply and delivery of seeds to Kaloleni ward which was not supported with a list of beneficiaries. Further, payments totalling Kshs.680,000 made to various community groups for purchase of tree seedlings, pitting and planting was also not supported with acknowledgement receipt of the items.

In the circumstances, the regularity of the expenditure of Kshs.1,279,600 on purchase of certified seeds, breeding stock and live animals could not be confirmed.

105.2 Routine Maintenance – Vehicles and Other Transport Equipment

The statement of receipt and payments reflects use of goods and services amount of Kshs.915,939,831. The amount includes Kshs.11,276,843 spent on routine maintenance – vehicles and other transport equipment. However, review of ten (10) sampled payments revealed the following anomalies;

- i. Payment for breakdown services for the recovery of a vehicle of amount of Kshs.354,000 was as a consequence of direct procurement in violation of Section 103(1) of the Public Procurement and Asset Disposal Act, 2015.
- ii. Motor vehicle maintenance log was not provided in support of payment for motor vehicle repair and maintenance amount of Kshs.929,482, overhaul repair and maintenance of environment truck vehicle amounting to Kshs.661,500, repair and maintenance of fire engine vehicle at Kshs.675,550, all totalling Kshs.2,266,532.
- iii. Payment for motor vehicle repair and maintenance for a vehicle amounting to Kshs.929,482 was based on a proforma invoice and no receipt was provided for the advance payment.

In the circumstances, the regularity of the expenditure of Kshs.3,550,014 on routine maintenance – vehicles and other transport equipment could not be confirmed.

105.3 Printing, Advertising and Information Supplies and Services

The statement of receipt and payments reflects use of goods and services amount of Kshs.915,939,831. The amount includes expenditure for printing, advertising and information supplies and services amount of Kshs.8,141,874. The County Executive paid an amount of Kshs.1,800,000 for Land Use Plan Report and Map Completion on

30 June, 2024. However, the expenditure was not included in the procurement plan or budgeted for and the payment was not supported with tender documents including requisition for the services, the evaluation report and professional opinion.

In the circumstances, the regularity of the expenditure of Kshs.1,800,000 on printing, advertising and information supplies and services could not be confirmed.

106. Unsupported Expenditure on Construction of Roads

The statement of receipts and payments and as disclosed in Note 9 to financial statements reflects acquisition of assets of Kshs.228,228,347 out of which an amount of Kshs.24,638,939 was incurred on construction of roads where the following anomalies were observed;

106.1 Murraming of Ebenezer Kilimanjaro Konoike Road

Review of expenditure records revealed that Management contracted a firm at a sum of Kshs.999,980 for murraming works on Ebenezer Konoike Road. However, the contract was not provided and the tender documents reviewed reflect a two (2) year framework agreement for hire of road maintenance equipment and not grading and gravelling of Ebenezer - Konoike road.

106.2 Gravelling and Murraming of Mata Ward Feeder Roads

Management contracted a firm for gravelling and murraming of Mata Ward feeder roads at a sum of Ksh.2,400,000. However, the tender opening minutes, professional opinion, letter of notification of award and letter of acceptance provided for audit were for a two (2) year framework agreement for hire of road maintenance equipment and not for gravelling and murraming of Mata feeder roads.

106.3 Unsupported Supply and Delivery of Fuel and Lubricants for Routine Maintenance for Ward Roads

Review of payment records revealed that the County Executive procured fuel and lubricants for routine maintenance of ward roads. However, the following anomalies were observed;

106.3.1 Routine Maintenance for Kaloleni Ward Roads

The County Executive procured the supply and delivery of fuel and lubricants worth Kshs.1,500,000 on 18 January, 2024. The requisition and the payment voucher described the expenditure as routine maintenance for Kaloleni Ward roads. However, fuel consumption statements and fuel detail orders in support of the fuel drawn and inspection reports on maintenance works were not provided for audit.

106.3.2 Routine Maintenance for Mata Ward Roads

The County Executive incurred an amount of Kshs.1,300,000 for the supply and delivery of fuel and lubricants on 25 June, 2024. The evaluation was done on 08 November, 2022 and a two (2) year framework agreement signed between the County Government and the supplier on 24 November, 2022. However, the payment was not supported with the evaluation report, letter of acceptance, delivery

acknowledgement of fuel and lubricants, fuel detail orders and the supplier's statement.

106.3.3 Routine Maintenance for Mboghoni Ward Roads

The County Executive paid for fuel and lubricants for Mboghoni Ward roads routine maintenance worth Kshs.1,000,000 on 28 June, 2024. However, the payments was not supported with the details of the motor vehicles fueled, fuel consumption statements and fuel detail orders.

106.4 Unsupported Provisional Sum on Rehabilitation of Ngambenyi Bungule Road

The Department of Public Works and Infrastructure tendered for the rehabilitation of Ngambenyi Bungule road and the lowest evaluated bidder was awarded the tender at a contract sum of Kshs.1,988,878. However, project inspection carried out on 20 September, 2024 and review of the bill of quantities revealed that provisional sum of Kshs.120,000 allocated for material testing was not supported by evidence of laboratory test results on materials used. Additionally, there was no concrete works done despite provision for Kshs.297,600 for the same.

In the circumstances, the accuracy, completeness and occurrence of Kshs.7,617,580 could not be confirmed.

Emphasis of Matter

107. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipt budget and actual amounts on comparable basis of Kshs.6,660,495,041 and Kshs.5,070,235,235 respectively, resulting in under-funding of Kshs.1,590,259,806 or 24% of the budget. However, the County Executive spent an amount of Kshs.5,007,872,796 against actual receipts of Kshs.5,070,235,235 resulting in an under-expenditure of Kshs.62,362,439 of the actual receipts.

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

My opinion is not modified in respect of this matter.

Other Matter

108. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, although Management has indicated that the issues have been resolved, no evidence was provided in support of this position.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

109. Unsupported Pending Payables

Note 20 to the financial statements on other important disclosures reflects accounts and staff payables balances carried forward amounts of Kshs.1,374,955,773 and Kshs.800,170,135 respectively, both totalling Kshs.2,175,125,908. However, analysis of detailed ledger indicating order and invoices issued and staff details which includes name and personal number were not provided for audit. In addition, Annex 3 to the financial statements on staff payables balance amount of Kshs.800,170,135 did not show how much was owed to the senior and middle management and unionisable employees. This was contrary to the reporting requirement prescribed and published by the Public Sector Accounting Standards Board (PSASB).

In the circumstances, Management was in breach of the PSASB reporting requirements.

110. Mining Operations

110.1 Unlicensed Mining Sites

Records maintained reflected that the County Executive had one hundred and sixty-one (161) mining sites located in the four (4) Sub Counties, registered between the 1997 and 2020. However, there was no evidence provided to confirm whether mining licenses had been granted to one hundred and fifty-eight (158) companies as provided by Section 180(1) of the Mining Act, 2016 which states that the Cabinet Secretary will not grant a license unless the applicant has submitted site plans, mitigation and rehabilitation or mine-closure plans and that the Mining permits issued were renewed as required by Section 142(1) of the Mining Act, No 2016 which states that the term of renewal of a mining permit is to be specified in the permit but not to exceed five years or the remaining life of the mine, whichever is the shorter.

Further, there was no evidence that the County Executive had complied with Section 101(2) of the Mining Act, 2016 which requires submission and approval of an environmental and social impact assessment report and environmental management plan for the duration of the mining license to the National Environment Management Authority, before licensing.

110.2 Undisclosed Information on Volume and Revenue Generated from Mining

Review of mining records provided revealed that quantities of minerals generated and revenues paid to the County Executive on the mining and mineral related activities was not disclosed, contrary to Section 119(3) of the Mining Act, 2016 which requires regulations made to provide accountable and transparent mechanisms of reporting mining and mineral related activities, including revenues paid to the Government by mineral rights holders and production volumes under each license or permit.

Further, details of community development agreement where the mining operations were being carried out was not provided for audit, contrary to Section 109(i) of the

Mining Act, 2016 which requires a mining license holder to sign a community development agreement where mining operations are to be carried out as prescribed by the regulations. Additionally, twenty-nine (29) mining companies in Voi Sub-County did not indicate the category of mineral being mined provided by Section 79(2) of the Mining Act, 2016 which requires keeping of records and details of minerals discovered, results of geochemical or geophysical analysis obtained, financial statements and books of accounts.

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

111. Non-Compliance with Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects an expenditure amount of Kshs.2,661,985,420 on compensation of employees representing 52% of the total revenue of Kshs.5,070,235,235. This was contrary to Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Executive to set a wage and benefits limit for public officers which should not exceed 35% of the total revenues received.

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

112. Incomplete Project Documentation

Review of a sample of seven (7) projects totalling Kshs.44,982,286 revealed that the respective projects files had omissions in recording and filing of project documents such as site minutes, certificates of works done, payment vouchers and inspection and acceptance certificates. This was contrary to Section 151(2)(h) of the Public Procurement and Asset Disposal Act, 2015 which provides that the contract implementation team shall be responsible for ensuring that the contract is complete, prior to closing the contract file including all handover procedures, transfers of title if need be and that the final retention payment has been made. Further, there were no progress reports contrary to Section 152 of the Public Procurement Asset Disposal Act, 2015 which provide that the head of the procurement function shall prepare monthly progress reports of all procurement contracts of the procuring entity and submit them to the accounting officer.

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

113. Incomplete, Stalled and Abandoned Projects

During the month of August, 2024, seven (7) projects with cumulative payments amounting to Kshs.44,982,286 were verified. One (1) project with cumulative payments of Kshs.1,298,072 was complete but not in use, two (2) projects with cumulative payments of Kshs.34,701,000 were incomplete; one (1) project with cumulative payments of Kshs.1,996,358 had stalled and two (2) projects with cumulative payments of Kshs.3,996,750 were abandoned.

In the circumstances, value for money for the incomplete, stalled and abandoned projects could not be confirmed.

114. Lack of Human Resource and Recruitment Plans

During the year under review, two hundred and one (201) new staff were hired by the County Executive. However, no annual recruitment plans including evidence of budgetary allocation was provided for audit. This was contrary to Section B.2(2) of the County Human Resource Management Policy and Manual, 2020 that requires, County Departments to develop annual recruitment plans backed by evidence of budgetary allocation which is forwarded to the County Public Service Board at the beginning of each financial year to enable it plan to fill the vacancies. In addition, Management did not prepare human resource plan to support achievement of goals and objectives in the strategic plan as is required of Section B.2(1) of the County Human Resource Management Policy and Manual, 2020.

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

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

Basis for Conclusion

115. Lack of Ownership Documents

The County Executive assets register reflects six hundred and sixty-five (665) parcels of land distributed across the departments. However, the ownership documents were not provided for audit. Further, there was no evidence that the County Executive had carried out physical inspection and verification of the assets during the year under review. Further, physical inspection and verification on September, 2024 revealed that four (4) parcels of land in Taveta Sub-County Mboghoni Trading centre, Kitoghoto trading centre, Kimorigo trading centre and Kimala trading centre did not have signage, thereby exposing the land to encroachment. In addition, the County Executive had two hundred and fifty-three (253) motor vehicles whose ownership documents were not provided for audit.

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

COUNTY EXECUTIVE OF GARISSA– NO.7

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

116. Unsupported Locum Payments

The statement of receipts and payments reflects compensation of employees' expenditure amount of Kshs.3,860,417,424 as disclosed in Note 3 to the financial statements. Included in the expenditure is an amount of Kshs.37,825,560 incurred in respect of locum payments to one hundred and fourteen (114) medical staff. However, there was no evidence of requisitions from the user department, appointment, approval and posting by the County Public Service Board for the staff engaged under locums. There was also no explanation on their roles, terms of engagement and remuneration.

In the circumstances, the regularity, completeness and occurrence of the expenditure of Kshs.37,825,560 could not be confirmed.

117. Unaccounted Pharmaceuticals Supplies

The statement of receipts and payments reflects expenditure totalling Kshs.875,399,218 on use of goods and services as disclosed in Note 4 to the financial statements which further includes an amount of Kshs.345,622,618 in respect of specialized materials and services which further includes expenditure on procurement of drugs worth Kshs.107,932,618 which were distributed to various facilities within the County. However, the deliveries were not taken on charge in the store ledgers.

Further, the Department of Health procured drugs from a local supplier worth Kshs.26,000,000. However, Management did not provide records to support the procurement process for acquisition of the drugs. Requisitions from user departments, delivery schedules, counter receipt vouchers (S13), stores ledgers and issues from the stores were not supported by counter requisition and issue voucher (S11) forms. In addition, payments for the pharmaceutical supplies were not supported by inspection and acceptance committee reports.

In the circumstances, the regularity, accuracy and completeness of the expenditure of Kshs.107,932,618 on supply of pharmaceuticals could not be confirmed.

118. Unsupported Finance Costs

The statement of receipts and payments reflects a balance of Kshs.4,229,213 in respect of finance costs, as disclosed in Note 9 to the financial statements. However, Management did not provide a breakdown of the finance costs.

In the circumstances, the accuracy and completeness of the finance costs of Kshs.4,229,213 could not be confirmed.

119. Unsupported Kenya Revenue Authority Agency Payments

The statement of receipts and payments reflects expenditure amount of Kshs.1,942,876,030 on acquisition of assets as disclosed in Note 8 to the financial

statements. The expenditure includes deductions amounting to Kshs.77,548,949 in respect of Kenya Revenue Authority agency payments for non-remittance of withholding tax deducted from supplier payments. However, the details of the payments were not provided for audit.

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

120. Accumulation of Pending Accounts Payables

Included under Annex 2 to the financial statements is an analysis of the pending bills balance of Kshs.1,815,019,389 as at 30 June, 2024 which increased by Kshs.1,244,848,840 from Kshs.570,170,549 as at 30 June, 2023. Although Management indicated that the incremental pending bills arose from findings of a Pending Bills Committee constituted by the County Executive, the authenticity of the additional pending bills could not be established as there were no disclosures or adjustments of the prior year's financial statements. Further, Management did not provide satisfactory explanations for the failure to settle pending bills for 2022/2023 and prior years despite receiving the full exchequer releases for the years. In addition, Management did not provide the plan and measures put in place to settle all the pending bills.

In the circumstances, the accuracy and completeness of the pending accounts payables balance of Kshs.1,815,019,389 could not be confirmed.

Emphasis of Matter

121. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.9,568,689,395 and Kshs.7,935,375,572 respectively, resulting to an under-funding of Kshs.1,633,313,823 or 17% of the approved budget. Further, the County Executive spent Kshs.7,932,015,780 against an actual receipts of Kshs.9,568,689,395 resulting in an under-expenditure of Kshs.1,636,673,615 or 21% of the actual receipts.

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

My opinion is not modified in respect of this matter.

Other Matter

122. Unresolved Prior year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

123. Irregularities in Human Resource Management

123.1 Non-Compliance with Fiscal Responsibility Principle on Wage Bill

Compensation of employees amounting to Kshs.3,860,417,424 represented 49% of the County's total revenue received of Kshs.7,935,375,572, which exceeded the set limit provided under Regulation 25(1)(a) and (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 thirty-five percent (35%) of the total County revenue.

123.2 Irregular Payment of Special House Allowances

Analysis of the County Executive payroll records revealed that fifty-two (52) employees were paid special house allowances amounting to Kshs.4,832,974 during the year under review in addition to the regular house allowance applicable for their designations. Management did not provide satisfactory explanation for the payment of special house allowances.

123.3 Failure to Maintain Staff Establishment

The County Executive did not have an approved staff establishment in place. As a result, it was not possible to establish how the cadres and staff capacity in the various departments were determined and whether the County Executive was operating at optimal staffing levels.

123.4 Non-Conformity with Law on Recruitment of Persons with Disabilities

Review of June, 2024 payroll records revealed that the County Executive had eighty-three (83) persons with disabilities, representing three percent (3%) of the County Executive's workforce. This was contrary to Section 2.23 of the Garissa County Human Resource Manual, 2018 which provides that at least five percent (5%) of all appointments shall be for persons with disabilities. In addition, the manual payroll with six hundred and sixty-eight (668) staff members did not contain details on gender, ethnicity and persons with disability and therefore it was not possible to determine the proportion of persons with disabilities.

123.5 Irregular Engagement of Casual Employees

During the year under review, the County Executive spent an amount of Kshs.36,288,000 on casual employees' wages. However, review of payroll records revealed that casual employees were engaged continuously for more than three (3) months. This was contrary to Section 37(1)(a) and (b) of the Employment Act, 2007 which provides that, where a casual employee works for a period or several continuous working days which amount in the aggregate to the equivalent of not less than one month; or performs work which cannot reasonably be expected to be completed within a period, or several working days amounting in the aggregate to the equivalent of three

months or more, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly. Further, master rolls and County Public Service Board approval for the engagement of the casual employees, were not provided for audit.

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

Review of the staff payroll for June, 2024 revealed that one hundred and sixty-six (166) employees were receiving net salaries that were less than one third of their respective basic salaries. This was contrary to the requirement of Section 19(3) of the Employment Act, 2007 which provides that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two thirds (2/3) of such wages.

123.7 Retention of Employees in Service Beyond Mandatory Retirement Age

Review of Integrated Payroll and Personnel Database (IPPD) revealed that six (6) employees had reached the mandatory retirement age of sixty (60) years but were retained in the service without any justification. This was contrary to Regulation 70(1) of the Public Service Commission Regulations, 2020 which provides that subject to the Constitution, Section 80 (a) and (b) of the Public Service Commission Act, 2017, any other relevant written law or a specific Government policy, the mandatory retirement age in the public service shall be sixty (60) years and sixty-five (65) years for persons with disability.

123.8 Processing of Salaries Outside the Integrated Payroll and Personnel Database

The County Executive maintained a manual payroll in spreadsheets with seven hundred and thirty-five (735) employees outside the Integrated Payroll and Personnel Database (IPPD). Manual payroll system can be susceptible to errors and irregularities such as ghost workers and unauthorized adjustments. Management did not provide satisfactory explanation why such a big number of employees were paid through manual payroll.

In the circumstances, Management was in breach of the law and the controls in place in processing salaries manually could not be confirmed.

124. Project Status and Implementation

124.1 Failure to Label County Projects

During the year under review, five (5) projects valued at Kshs.93,575,184 were completed. However, inspection of the projects revealed that they were not labelled despite provisions for branding of Kshs.50,000 in the Bill of Quantities. Review of the records revealed that payments to the contractors were made inclusive of the provision for branding without the works being executed, which constitutes an irregular charge to public funds.

124.2 Stalled Projects

Inspection of projects carried out in September, 2024 revealed that seventeen (17) projects awarded at a total contract sum of Kshs.504,292,598 by the County Executive in the previous financial years had stalled and the contractors were not on site.

124.3 Completed Projects Not Put into Use

Further, the inspection revealed that eight (8) projects valued at Kshs.207,158,971 initiated in the previous financial years were completed in the year under review but had not been put in use.

124.4 Incomplete Equipping and Extension of Baraki and Maalimin Water Pipeline

Records indicated that during the 2016/2017 financial year, the County Executive awarded a contract for equipping and extension of fifty-six (56) kilometres pipeline between Baraki and Maalimin in Lagdera Sub-County at a contract sum of Kshs.219,827,435. Project inspection carried out in September, 2024 revealed that only thirty-five (35) kilometres of piping had been completed and two (2) substations were not started. Further, the project may not achieve its objective since the three (3) boreholes that form part of the project have a total yield of 66 cubic metres per hour while the collecting pipe can carry 22 cubic metres per hour with no storage at the collection centre. Further, the distance between the two (2) substation tanks is twenty (24) kilometers with the ground inclined upwards which may hamper water flow thereby putting in doubt the feasibility of the project. In addition, the contractor was not on site.

124.5 Incomplete Construction of Garissa County Referral Hospital Medical Records Offices

Management entered into a contract with a local contractor for the construction of Garissa County Referral Hospital Medical Records Offices at a contract sum of Kshs.11,859,016. The project had a completion date of April, 2024 which was extended to September, 2024 following approval of the contractor's request. However, physical inspection conducted in September, 2024 revealed that an estimate of 60% completion of work but the contractor was not on site.

124.6 Incomplete Construction of Parking and Fencing at Qorahey

Management entered into a contract with a local contractor for the demolition and construction of parking and fencing at Qorahey market in Township Sub-County at a contract sum of Kshs.19,467,404. The project was to be completed by 30 June, 2024. However, project inspection conducted in September, 2024 revealed that the project was incomplete and the contractor was not on site.

124.7 Incomplete Fencing of Agricultural Training Centre

Management entered into a contract with a local contractor for fencing of the Agricultural Training Centre in Garissa Township at a contract sum of Kshs.27,365,320 with a completion date of 28 April, 2024. Project inspection conducted in September, 2024 revealed that portions of the perimeter wall had collapsed due to the impact of

flooding. Also, there was encroachment by the local community who had destroyed an estimated twenty-four (24) meters stretch of the perimeter wall and the contractor was not on site.

124.8 Upgrading to Bitumen Standard of Bulla Madina - Dobale Road

Management entered into a contract with a local contractor for the upgrading to bitumen standards of Bulla Madina-Dobale Road at a contract sum of Kshs.39,219,843 with an expected completion date of 16 October, 2024. Inspection conducted in September, 2024 revealed that the road was at the base stage with estimated progress of work at 70% and the contractor was not on site.

In the circumstances, value for money may not have been realized from the expenditure on incomplete, stalled or completed but not put to use projects.

125. Irregular Operation of Bank Accounts

The statement of financial position reflects cash and cash equivalents balance of Kshs.64,247,994 as disclosed in Note 10 to the financial statements. The balance includes amounts of Kshs.103,741, Kshs.1,710,677 and Kshs.61,057,195 in three (3) Garissa County Payroll accounts held in three (3) commercial banks. Regulation 82(1) of the Public Finance Management (County Governments) Regulations, 2015 states that (a) all County exchequer accounts shall be opened at the Central Bank of Kenya, except for imprest bank accounts for petty cash. Management did not provide explanation for operating the three accounts whose purpose could not be confirmed.

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

126. Failure to Transfer Functions to Established County Entities

During the year under review, the County Executive executed functions that fall under the mandate of established County entities with no satisfactory explanations. The entities had been in existence for more than five (5) years hence have adequate structures to enable them execute their respective functions as detailed below:

126.1 Procurement of Food Donations

During the year under review, the County Executive procured foodstuffs worth Kshs.34,471,550 for flood victims. However, Management did not explain why the donations could not be procured and managed by the existing Garissa County Emergency Fund.

126.2 Procurement of Street Lighting for Garissa Township Municipality

During the year under review, the County Executive engaged a contractor for solarization at Suq Muqdi Market and Bula Madina in Township Sub-County at a contract sum of Kshs.23,996,688. In addition, the County Executive entered into a contract with a local supplier for the installation of street lighting along Lamu Garissa Road in Township Sub-County at a contract sum of Kshs.19,496,178. However, Management did not explain why the works were not executed by the Garissa Municipality mandated to undertake the functions.

126.3 Procurement of Items for Garissa Water and Sewerage Company and Masalani Water Supply Project from Recurrent Vote

During the year under review, the County Executive procured aluminum sulphate and laboratory items worth Kshs.9,582,000 and Kshs.12,0834,281 on behalf of Garissa Water and Sanitation Company and Masalani Water Supply Project respectively. However, Management did not explain why the items were not procured by the respective water companies.

In the circumstances, the effectiveness in the execution of functions of County entities by the County Executive.

127. Irregular Payments to the Frontier Counties Development Council

During the year under review, the County Executive paid an amount of Kshs.3,000,000 to Frontier Counties Development Council. However, the Council is not a public entity. As a result, the payment made to the entity for undisclosed services provided is an irregular charge to public funds.

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

128. Failure to Submit Financial Statement for County Entities

Management did not prepare and submit to the Auditor-General financial statements of Garissa Rural Water and Sewerage Company for the financial year ended 30 June, 2024. This was contrary to Section 164(4)(a) of the Public Finance Management Act, 2012 which states that within three months after the end of each financial year, the Accounting Officer for an entity shall submit the entity's financial statements to the Auditor-General.

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

129. Failure to Publish and Publicize Procurement Contracts

Management did not provide evidence to confirm that procurement contracts entered into during the year were published on the County Executive's notice boards and website as required. Further, there was no evidence provided to confirm that the signed contracts were reported to the Public Procurement Review Authority. This was contrary to Regulation 131(a) and (b) of the Public Procurement and Asset Disposal Regulations, 2020, which provides that an Accounting Officer of a procuring entity shall, publish and publicize all procurement contracts at its notice boards and websites within fourteen (14) days after signing the contract and report all signed contracts to the Authority within fourteen (14) days after the end of every month in the format provided by the Authority.

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

130. Failure to Implement E-Procurement

During the year under review, the County Executive spent substantial amounts in acquisition of goods, works and services. However, the County Executive had not implemented e-Procurement system hence goods, works and services were procured through manual procurement system. This was contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the state portal.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

131. Failure to Appoint County Chief Officers

During the year under review, the County Executive did not have Chief Officers for all its departments. Departmental directors were designated to act as Chief Officers for the departments. Management did not provide satisfactory explanation for the failure to appoint Chief Officers within reasonable timelines after the inauguration of the current Government.

In the circumstances, effective delivery of services could not be confirmed.

132. Lack of Substantive County Public Service Board Chairman

The contract for the Chairperson of the County Public Service Board expired in February, 2024. However, as at September, 2024 when the audit was carried out, a substantive Chairperson to the Board had not been appointed.

In the circumstances, the overall governance at the County Executive could not be confirmed.

133. Unconfirmed Existence of County Motor Vehicles

Motor vehicles inventory for the year under review was not provided for audit. As a result, it was not possible to confirm the total number of County Executive vehicles deployed to various County departments and their condition. Failure to maintain proper records of motor vehicles may lead to misappropriation and misuse.

In the circumstances, safe custody and prudent Management of motor vehicles could not be confirmed.

134. Ineffective Internal Audit Unit and Audit Committee

Review of audit documentation revealed that the County Executive did not establish an Audit Committee. This was contrary to Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County

to establish an Audit Committee which shall support the Accounting Officers with regard to their responsibilities for issues of risk, control and governance and associated assurance and also to follow up on the implementation of the recommendations of internal and external auditors. Further, review of the operations of the internal audit department revealed that the County Executive had an internal audit unit in place. However, during the financial year under review, the department did not submit any report.

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

COUNTY EXECUTIVE OF WAJIR – NO.8

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

135. Irregularities in Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.1,921,703,024 in respect of use of goods and services as disclosed in Note 3 to the financial statements. The following unsatisfactory matters were however noted:

135.1 Unsupported Distribution of Medical Drugs

Included in the use of goods and services is an amount of Kshs.416,920,304 in respect of specialized materials and services. Review of payment records revealed that an amount of Kshs.156,206,419 was paid to Kenya Medical Supplies Authority (KEMSA) for supply and delivery of medical drugs to various facilities within the County. However, an amount of Kshs.97,790,527 in respect of supply of drugs to dispensaries and health centers was not supported by way of stores records including receipt vouchers (S13), store ledgers and issue notes from the facilities that received the drugs.

135.2 Wasteful Expenditure on Repair of Generator

Included in the use of goods and services is an amount of Kshs.118,984,728 in respect of routine maintenance on other assets. Review of payment records revealed that an amount of Kshs.9,312,053 was made in respect of repair of a generator at the County Headquarters. However, Management did not provide justification for the expenditure, which was estimated as enough to purchase a new generator, raising concerns of potential excess and wasteful expenditure.

In the circumstances, regularity of the above expenditure amounting to Kshs.97,790,527 for medical drugs and Kshs.9,312,053 for general repair could not be confirmed.

136. Unconfirmed Delivery of ICT Equipment

The statement of receipts and payments reflects an amount of Kshs.2,295,932,677 in respect of acquisition of assets as disclosed in Note 7 to the financial statements. Included in the expenditure is an amount of Kshs.57,569,999 in respect of purchase of office furniture and general equipment. Review of delivery records provided for audit revealed that an amount of Kshs.40,204,140 was incurred on supply and delivery of ICT equipment including laptops and printers. However, delivery notes worth Kshs.18,976,140 did not include serial numbers for the equipment acquired hence, it was not possible to confirm existence of the items supplied.

In the circumstances, the existence and accuracy of equipment amounting to Kshs.18,976,140 could not be confirmed.

137. Irregular Expenditure on Other County Entities

During the year under review, the County Executive made payments amounting to Kshs.381,062,459 for goods, works and services relating to Wajir Water and Sewerage Company, Wajir Municipality and Wajir County Assembly. The three (3) entities have separate management and structures, hence should carry out their operations separately and independently from the County Executive to facilitate accountability of funds allocated to the entities. Further, an amount of Kshs.196,275,261 was paid on behalf of the County Assembly. The County Assembly had an approved budget of Kshs.999,537,966, thus resulting in a total allocation of Kshs.1,195,813,227 or 11% of the total County Government Revenue for the year under review. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments), Regulations, 2015 which provides that the approved expenditures of a County Assembly shall not exceed seven percent (7%) of the total revenues of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower. Management did not provide a justifiable explanation for making the payments on behalf of the entities.

In the circumstances, the regularity and value for money for the expenditure amounting to Kshs.577,337,720 in respect of other County entities could not be confirmed, and Management was in breach of the law.

Emphasis of Matter

138. Failure to Achieve Performance Objectives

I draw attention to the statement of performance against County's predetermined objectives disclosed in page xix that the County Executive planned to construct ten 100,000M³ and above mega pans. However, review of documents provided for audit and audit inspection carried out in the month of September, 2024 revealed that only four (4) mega pans of 60,000M³ capacity were constructed and were not reported in the statement of performance against predetermined objectives. Further, out of three ninety-five (395) planned targets across nine (9) departments, only one hundred and seven (107), representing 27% were achieved, while two hundred and sixteen (216), representing 55% were not achieved and fifty-four (54), representing 14% were partially completed. Additionally, eighteen (18) or 5% of the targets had no status or remarks, highlighting significant gaps in achieving the development objectives outlined in the Annual Development Plan.

No explanation was provided for the deviation from the projects undertaken and those outlined in the Annual Development Plan. Failure to implement projects in accordance with targets and priorities outlined in the Annual Development Plan may lead to insignificant progress in addressing development challenges in the County.

139. 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.11,143,480,018 and Kshs.10,166,313,461 respectively resulting in under-funding of Kshs.977,166,557 or 9% of the budget.

My opinion is not modified in respect of these matters.

Other Matter

140. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

141. Irregularities in Compensation of Employees

141.1 Employees Earning Less than One-Third of Basic Salary

Review of the staff payroll for the month of June, 2024 revealed that one hundred and fifty-eight (158) employees were receiving net salaries less than one-third of their respective basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which stipulates that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

141.2 Irregular Engagement of Staff on Interim Basis

Review of the staff payroll revealed that eighteen (18) employees were designated as interim, a position which is not provided in the County Human Resource Manual, 2013. The nature of duties for which the staff were engaged could not be established since there were staff of similar categories engaged on a permanent basis.

141.3 Irregular Engagement of Casual Employees

Review of employees records revealed that four hundred and eighty-two (482) casual employees were engaged continuously for more than three (3) months, contrary to the requirement of Section 37(1)(a) and (b) of the Employment Act, 2007 which provides that, where a casual employee works for a period or a number of continuous working days which amounts in the aggregate to the equivalent of not less than one month; or performs work which cannot reasonably be expected to be completed within a period, or a number of working days amounting in the aggregate to the equivalent of three months or more, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly. Further, the casuals were engaged to perform tasks that are ordinarily performed by contractual and permanent employees including supply chain management assignments and revenue collection.

141.4 Non-Compliance with Engagement of Persons with Disabilities Requirement

Review of the payroll data revealed that the County Executive had a total of four thousand, two hundred and nine (4,209) employees, including eighty-five (85) Persons with Disabilities (PWDs), representing approximately 2% of the total workforce. This

was contrary to Section 13 of the Persons with Disabilities Act, 2013, which provides that the Council shall endeavor to secure the reservation of five percent (5%) of all casuals, emergency, and contractual positions in employment in the public and private sectors for persons with disabilities.

141.5 Non-Compliance with Fiscal Responsibility Principle on Compensation of Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,155,910,662 as disclosed in Note 4 to the financial statements. This represents 41% of the total receipts for the year of Kshs.10,166,128,101. The County Executive therefore surpassed the set limit of 35% by 6%. This was contrary to Regulation 25(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the County Executive's expenditure wages and benefits shall not exceed 35% of total County Executive revenue for the year.

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

142. Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.1,921,703,024 as disclosed under Note 3 to the financial statements. However, the following anomalies were noted:

142.1 Irregular Payments to the Council of Governors and Frontier Counties Development Council Limited

Included in the expenditure is an amount of Kshs.182,148,211 in respect of other operating expenses. Out of the amount, payments amounting to Kshs.3,500,000 and Kshs.3,000,000 were made to the Council of Governors and Frontier Counties Development Council Limited respectively. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

142.2 Unsupported Fuel, Oil and Lubricants

Included are payments amounting to Kshs.211,376,871 in respect of fuel, oil and lubricant. However, Electronic Tax Register (ETR) receipts to confirm the fuel supplier's compliance with Regulation 6 of the VAT Regulations, 2020 were not provided for audit.

142.3 Unserviceable Motor Vehicles and Equipment

Physical inspection of County Executive assets in the month of November, 2024 revealed that as of 30 June, 2024, nineteen (19) motor vehicles of undetermined value were grounded. However, Management did not demonstrate any plans put in place to repair the vehicles or dispose them off. Further, the County Executive did not have an annual disposal plan. This was contrary to Regulations 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an accounting

officer of a procuring entity to ensure that an annual assets disposal plan is prepared of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment.

142.4 Irregular Lease of Office for Nairobi Liaison Office

The County Executive incurred an expenditure amounting to Kshs.9,403,097 in respect of rent on leased assets which further includes an amount of Kshs.2,069,994 made in respect of leasing of a liaison office in Nairobi. According to the lease agreement, the office was leased at a monthly rent of Kshs.230,000 with an annual escalation rate of 7.5%. However, the direct procurement method was used to lease the office since no evidence of competitive bidding was provided for audit. Further, no evidence of a market survey to determine the market rent applicable in the area where the offices are situated or involvement of the Ministry of Public Works and Housing was provided for audit.

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

143. Irregularities in Acquisition of Assets

The statement of receipts and payments reflects expenditure on acquisition of assets amount of Kshs.2,295,932,677 as disclosed in Note 7 to the financial statements. However, the following anomalies were noted:

143.1 Irregular Expenditure on National Government Functions

Included are payments amounting to Kshs.676,754,410 in respect of construction of civil works which further includes payments amounting to Kshs.25,939,260 incurred on construction of classrooms and administration blocks in primary and secondary schools. However, development of these facilities fall within the functions of the National Government. This was contrary to the provisions of the Fourth Schedule of the Constitution of Kenya, 2010 which sets out the functions and powers of the national government and the county governments.

143.2 Completed International Abattoir but not in Use

Physical inspection carried out in September, 2024 revealed that an international abattoir was constructed in Wajir County. The project was initiated by the Ministry of Northern Kenya and Arid Lands Development in 2011 aimed at boosting the local economy through value addition in meat processing and export. However, physical inspection revealed that although the abattoir was completed several years ago, it remained unused. Further, the gate was vandalized and the buildings were dilapidated due to neglect. No handover report, project files or payment records to determine the total amount paid by the National and County Governments were provided for audit.

143.3 Incomplete Construction of Perimeter Wall at Wajir Waste Disposal Site

Included are payments amounting to Kshs.288,655,086 in respect of overhaul and refurbishment of civil works which further includes payments amounting to Kshs.45,455,794 incurred in construction of a perimeter wall at Wajir Waste Disposal site. The contract was awarded at sum of Kshs.48,996,138. However, physical

inspection carried out in the month of September, 2024 revealed that razor wire, valued at Kshs.2,448,000 and a signboard, valued at Kshs.100,000 were not erected. Further, plaster works and internal painting work valued at Kshs.1,980,000, were not completed. In addition, the gate fixed valued at Kshs.636,000, was four (4) meters wide instead of the (six) 6 meters provided in the Bill of Quantities and one (1) gate had been fitted instead of the two (2) provided. Further, the contractor was not in site.

143.4 Delay in Construction of Wagalla Road

Included in the payments is an amount of Kshs.288,655,086 in respect of overhaul and refurbishment of construction and civil works which includes amounts of Kshs.25,536,541 and Kshs.24,463,459 incurred on improvement of Wagalla Road in two (2) sections: Wajir Girls to Surai Market and Surai Market to County Assembly. According to the Department of Roads, Transport, and Public Works status report, the projects were scheduled to commence on 24 January, 2017 and end on 24 September, 2017 translating to a period of eight (8) months. However, six (6) years later, the works were incomplete. No explanation was provided for the delay. Further, contract agreements, performance bonds and certificates of practical completion were not provided for audit.

143.5 Unconfirmed Farm Groups Projects

Included in the payments is an amount of Kshs.227,223,337 in respect of rehabilitation of civil works which includes an amount of Kshs.11,670,632 incurred on solarization, water reticulation and the installation of elevated plastic tanks with a capacity of 5,000m³ on steel platforms for various farm groups. However, documentation to support the criteria applied in the selection process or eligibility criteria for the groups, registration documents for the groups, monitoring reports on the outcomes and impact of the project were not provided for audit.

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

144. Irregular Operation of Standing Imprest Account

During the year under review, an amount of Kshs.153,296,276 was transferred from the Central Bank of Kenya recurrent account to standing imprest account maintained at a commercial bank. The amount was paid from the commercial account for normal payments including compensation of employees and daily subsistence allowances. This was contrary to Regulation 82(1) of the Public Finance Management (County Governments) Regulations, 2015 which require all County exchequer accounts and County Government bank accounts to be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash. The nature of payment and amounts involved could not be justified to be paid from petty cash.

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

145. Pending Bills

145.1 Accumulation of Pending Accounts Payables

Note 14 under other important disclosure and as disclosed in annexes 2 and 3 to the financial statements reflects pending accounts payables and other pending payables

balances of Kshs.999,082,039 and Kshs.675,704,737 respectively. However, review of the supporting schedule revealed pending bills amounting to Kshs.339,032,378, which should have been a first charge in the subsequent years, related to the period between 2014/2015 and 2021/2022. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which provides that debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations. Further, pending accounts payables amounting to Kshs.9,847,454 were ineligible since they related to works not done as per the specifications.

145.2 Payments Outside the Disclosed List of Pending Bills

Review of payment records relating to various projects revealed that an amount of Kshs.19,886,011 was paid during the year in respect of projects that were initiated and procured during the previous financial years. However, the pending bills were not disclosed in the prior years audited financial statements. This was contrary to Paragraph 2.2.4 of The National Treasury Circular PSASB 1/12/Vol.1(44) dated 25 June, 2019 which requires disclosure of pending bills to enhance transparency in their management. The Circular provides that pending bills movement should be disclosed to provide transparency in the handling of outstanding bills and to facilitate informed decision-making, particularly concerning long-outstanding pending bills.

In the circumstances, Management was in breach of the law and value for money of payments could not be confirmed.

146. Lack of Sectoral Planning

The County departments did not prepare sectoral plans as provided under Section 109 of the County Governments Act, 2012, which requires each department to develop a ten-year sectoral plan as part of the County Integrated Development Plan (CIDP). Further, the Sectors did not prepare annual work plans aligned to the Annual Development Plan to serve as road map for implementation of the annual sector programmes and projects.

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

147. Failure to Implement E-Procurement

During the year under review, the County Executive acquired goods, works and services. However, Management had not implemented e-procurement system, hence goods, works and services were procured through a manual system. This was contrary to Executive Order No.2 of 2018 which directed all public procuring entities to conduct all procurement processes through the e-procurement module on the IFMIS system, starting from 1 January, 2019 and Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020, which provides that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

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

148. Lack of Project Implementation Status Report

Physical inspection carried out in the month of August, 2024 revealed that the County Executive implemented eleven (11) major building construction projects, out of which six (6) projects were still on-going and five (5) were complete. However, three (3) of the completed projects which included Wajir County Assembly building, mortuary block and the blood transfusion centre were not in use. Further, Management did not prepare a project implementation status report as required by Section 152 of the Public Procurement and Asset Disposal Act, 2015 which requires the head of the procurement function to prepare monthly progress reports of all procurement contracts of the procuring entity and submit them to the accounting officer. In the circumstances, Management was in breach of the law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

149. Lack of Project Specifications in the Budget

The County Executive had an Annual Development Plan (ADP) that outlined programs and activities to be undertaken during the year under review. However, the County Budget did not contain specific projects earmarked for implementation during the year and amounts allocated to the projects. Due to lack of detailed budgeting, it was not possible to verify whether the implemented projects were in line with the development priorities in the ADP. Instead, the budget contained general expenditure provision for development expenditure such as refurbishment of buildings amount of Kshs.30,000,000, other infrastructure amount of Kshs.31,200,000, and construction of classes amount of Kshs.36,550,000. Lack of specific projects may have created an avenue for implementation of projects outside the priorities identified by stakeholders during public participation. Further, it was not possible to confirm whether, the development projects identified during public participation were fully implemented.

In the circumstances, linkages to the Annual Development Plan and the annual budget could not be confirmed.

150. Use of Manual Payroll

Review of the County Executive payroll revealed that salaries were processed through two (2) sets of payrolls which included the Integrated Payroll and Personnel Database (IPPD) and manual payroll maintained in MS Excel worksheets. During the year under review, a total of one thousand, one hundred and fourteen (1,114) employees were paid an amount of Kshs.23,792,180 through manual payroll.

In the circumstances, prudent management of manual payroll records resulting to accuracy and transparency of the payroll could not be confirmed.

151. Weaknesses in Management of Non-Current Assets

As disclosed in Annex 4 of the financial statements, the summary of non-current assets register reflects summary of non-current assets with historical cost balance of

Kshs.20,212,419,200. However, non-current asset register, policies and procedures relating to asset management guidelines on non-current assets acquisition, use, control, protection, maintenance and disposal of assets were not provided for audit review. In addition, assets were not tagged for ease of identification and tracking of movement. Further, lack of effective internal controls on assets management may expose County Executive's assets to misuse and theft.

In the circumstances, the effectiveness of the asset management by Management during the year under review could not be confirmed.

152. Lack of Inventory Management System for Drugs and Medical Supplies

The County Executive has several healthcare facilities. However, an inventory management system to manage the stock of drugs and medical supplies was not in place. Instead, inventory records were maintained manually in physical files by the stores staff. The records were not organized according to the item code number, date of order and fiscal year. This practice poses a risk of inefficiency, errors and loss of critical data, particularly with respect to monitoring expiry dates and the timely distribution of drugs.

In the circumstances, lack of an effective inventory management system for the health facilities may lead to inefficiencies and negatively impact on service delivery.

153. Lack of Fire Suppression Systems

Physical inspection of key County Executive premises revealed that fire extinguishers were not installed in key areas of the County Executive premises. Fire extinguishers are critical for controlling and extinguishing fires before it escalate. The absence of these essential safety devices poses significant risk to personnel and property.

In the circumstances, the County Executive's preparedness for fire disasters could not be confirmed.

154. Lack of Effectiveness in the Internal Audit Unit and Audit Committee

Review of the operations of the internal audit unit revealed that the unit comprised of five (5) staff members. During the year under review, the unit only carried out audit of the financial operations of Wajir Water and Sewerage Company Limited and the County Executive stores. Other major areas of the County Executive operations were not covered during the year under review. Reasons cited for the limited coverage included staff shortage and lack of adequate budgetary allocation.

Further, the County Audit Committee comprised of four (4) members. However, no evidence was provided to confirm that the committee held any meeting during the year under review. Minutes of the Committee provided indicated that the committee met on 15 July, 2024. The Minutes indicated that the committee carried out an overview of the internal audit report and the Report of Auditor-General for the year ended 30 June, 2023. However, there was no evidence provided of any report from the Committee to Management containing the deliberations and recommendations for action by Management.

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

COUNTY EXECUTIVE OF MANDERA – NO.9

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

155. Unsupported Direct Payments to Kenya Revenue Authority

The statement of receipts and payments reflects an amount of Kshs.4,111,229,696 in respect of compensation of employees as disclosed in Note 2 to the financial statements. Included in the expenditure is Kshs.1,672,367,580 in respect of basic salaries of permanent employees which further includes an amount of Kshs.39,522,351 paid directly to the Kenya Revenue Authority (KRA) on basis of the Authority's Agency notice for non-remittance of taxes. However, the payments were not supported by details of the deductions that were not remitted to KRA. In addition, the payments were not processed through the Integrated Financial Management System Information (IFMIS).

In the circumstances, the completeness and proper classification of the expenditure amounting to Kshs.39,522,351 could not be confirmed.

156. Unsupported Payments on Pharmaceutical and Non-Pharmaceutical Supplies

The statement of receipts and payments reflects an amount of Kshs.2,353,982,401 in respect of use of goods and services as disclosed in Note 3 to the financial statements. Included in the expenditure are payments amounting to Kshs.765,384,298 for specialized materials and services, out of which an amount of Kshs.148,365,078 is in respect of pharmaceutical drugs, non-pharmaceuticals, dressings and lab reagents from Kenya Medical Supplies Authority (KEMSA). However, the expenditure was not supported by way of requisitions from the County health facilities, inspection and acceptance committee reports, counter receipt voucher (S13) and counter issue notes (S11) and S3 cards.

In the circumstances, the accuracy, completeness and occurrence of expenditure of Kshs.148,365,078 could not be confirmed.

157. Unsupported Deposits and Retentions

The statement of assets and liabilities reflects deposits and retentions balance of Kshs.10,641,645 as disclosed in Note 8 to the financial statements. However, the ageing analysis for the balance, movement schedule showing the retentions opening balance, additions and payments during the year was not provided for audit. Further, the balance at the end of the financial year was not supported with contracts, certificates of payment contract number, fee note, interim payment certificate, reference of the payment from which the retention money was deducted and other supporting documentation that the payables are a liability.

In the circumstances, the accuracy and completeness of the deposits and retentions balance of Kshs.10,641,645 could not be confirmed.

158. Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,353,982,401 as disclosed in Note 3 to the financial statements. Included in the expenditure is Kshs.625,414,200 in respect of other operating expenses. However, the following unsatisfactory matters were noted:

158.1 Unsupported Payment for Consultancy Services

Review of contract records revealed that the County Executive entered into a contract for provision of consultancy services for preparation of valuation roll for Mandera and Elwak Municipalities in the County at a contract sum amounting to Kshs.54,184,800 on 15 April, 2024. A total of Kshs.5,000,000 representing 9% of the contract sum was paid to the consultant. However, the payment was not supported with a report of the contract implementation team as required by Section 151(1) of the Public Procurement and Asset Disposal Act, 2015.

158.2 Unsupported Provision of Legal Services

Review of payment records revealed that an amount of Kshs.45,500,000 was incurred on provision of legal services. However, the expenditure was not supported by a written approval by the County Executive Committee and a request to engage for those services by the respective departments. This was contrary to Section 16 of the Office of the County Attorney Act, 2020, which provides that a department or public entity established within a County Executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without written approval of the County Executive Committee and a request to engage those services shall be in writing.

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

Emphasis of Matter

159. Budgetary Control and Performance

The statements of comparison of budget and actual amounts (Recurrent and Development Combined) reflects final approved receipts budget and actual on comparable basis amounts of Kshs.11,987,831,007 and Kshs.10,749,914,764 respectively, resulting in under-funding amount of Kshs.1,237,916,243 or 10% of the budget. However, the County Executive spent an amount of Kshs.10,489,346,036 against actual receipts of Kshs.10,749,914,764 resulting in under-utilization amount of Kshs.260,568,728 of the actual amounts.

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

My opinion is not modified in respect of this matter.

Other Matter

160. Unresolved Prior Year Matters

In the audit report for the previous year, several issues were raised under Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved the issues as at 30 June, 2024 and no satisfactory reasons were given for the delay in solving the prior year's matters.

161. Late Disbursement of Exchequer Issues

The comparison of budget and actual amounts (Recurrent and Development Combined) reflects total actual receipts of Kshs.10,749,914,805 which includes equitable share of revenue from the Exchequer of Kshs.10,702,536,315. However, exchequer releases amounting to Kshs.2,464,941,938 was received in June, 2024 from the Exchequer. Further, the County Executive was allocated an equitable share of Kshs.11,633,191,646 for the 2023/2024 financial year. However, only Kshs.10,702,536,314 was actually disbursed to the County Executive leaving a shortfall of Kshs.930,655,331 that remained undisbursed. This was contrary to Section 17(6) of the Public Finance Management Act, 2012, which requires that the National Treasury shall, at the beginning of every quarter and in any event not later than the fifteenth (15th) day from the commencement of the quarter, disburse monies to County Governments.

Due to late remittances, the County Executive could not undertake all the planned and budgeted for programmes in time, and thereby impacting negatively on service delivery.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

162. Non-Compliance with Budgetary Limits and Reporting Requirements

The approved revenue budget for the County Government (County Executive and Assembly) for the year under review amounted to Kshs.13,000,831,007. Included in the budget amount is Kshs.1,013,000,000 for the County Assembly. The approved budget for the County Assembly translates to 7.8% of the total County Government Revenue which exceeded the fiscal limit of 7% set under Regulation Section 25(1)(f) of the Public Finance Management (County Governments), Regulations, 2015. Further, the County Executive Committee Member for Finance did not submit a responsibility statement to County Assembly explaining the reasons for the deviation and providing a plan on how to ensure annual actual expenditure outturns as well as medium term allocation comply with the provisions of Section 107(2)(a) of the Act and the regulations in the subsequent years as required by Regulation 25(1)(h).

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

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

Review of the payroll data revealed that the County Executive had a total staff of three thousand seven hundred and sixty-one (3,761) as at 30 June, 2024. However, out of this number, one thousand nine hundred and eighteen (1,918), representing approximately 51%, were from the dominant ethnic community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008, which stipulates that no public establishment should employ more than one-third of its staff from the same ethnic community.

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

164. Non-Compliance with Law on Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,111,229,696 representing 38% of the total revenue received amounting to Kshs.10,749,914,764. However, this was contrary to Regulation 25(1)(a) and (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 thirty-five (35%) of the total County Executive revenue.

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

165. Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.2,353,982,401 as disclosed under Note 3 to the financial statements. However, the following anomalies were noted:

165.1 Irregular Subscriptions to Two (2) Entities

Included in the goods and services expenditure are payments amounting to Kshs.625,414,200 in respect of other operating expenses. However, review of payment records provided for audit revealed that, amounts of Kshs.2,000,000 and Kshs.1,000,000 were paid to the Council of Governors and Frontier Development Council-Regional Block respectively. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

165.2 Irregular Procurement of Supply and Delivery of Business Start-up Kits

Included in the goods and services expenditure are payments amounting to Kshs.765,384,298 in respect of on specialized materials and services, out of which, an amount of Kshs.15,499,412 is in respect to supply and delivery of business start-up kits. The County Executive procured business start-up kits for various groups in the County through request for quotations from six (6) different suppliers and on various occasions instead of floating a single annual open tender thereby engaging in irregular split of procurement. This was contrary to Section 54(1) of Public Procurement and Asset Disposal Act, 2015 which provides that no procuring entity may structure

procurement as two or more for the purpose of avoiding the use of a procurement procedure.

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

166. Acquisition of Assets

The statement of receipts and payments reflects expenditure on acquisition of assets amount of Kshs.1,826,960,098 and as disclosed in Note 6 to the financial statements. However, the following anomalies were however noted:

166.1 Unutilized Regional Livestock Market

Included in the acquisition of assets expenditure are payments amounting to Kshs.368,403,499 in respect to the construction of buildings. Review of procurement records provided for audit revealed that the County Executive entered into a contract on 15 May, 2021 for construction of regional livestock market at Mandera East at a contract sum of Kshs.339,606.523. The contractor was paid an amount of Kshs.22,000,000 during the year under review, being a pending bill from the previous year. However, physical inspection conducted on 17 September, 2024 revealed that the project was completed but not in use an indication that the market was not for immediate use.

166.2 Anomalies in Construction of Classrooms

Included in the acquisition of assets expenditure are payments amounting to Kshs.368,403,499 in respect of construction of buildings. Included in the payments is an amount of Kshs.6,796,822 for construction of six (6) ECDE classrooms in five (5) different schools in various Sub-counties within Mandera County. However, physical inspection conducted on 14 September, 2024 revealed that the ECDE classrooms were not constructed on stand-alone site but were joined to other classrooms constructed by National Government Constituencies Development Fund (NG-CDFs) contrary to the Bill of Quantities. In addition, the classrooms were not branded to reflect that they were constructed by the County Executive, resulting in challenges in verifying projects implemented by the County Government and those implemented by NG-CDFs.

166.3 Expenditure incurred on National Government Functions

The expenditure includes payments amounting to Kshs.368,403,499 in respect to the construction of buildings. Review of the expenditure records revealed that the County Executive implemented various projects costing Kshs.74,363,509 which fall under the National Government functions. The projects included construction of infrastructures for primary and secondary schools, construction of infrastructures for Kenya Medical Training College, Teachers Training College and Technical Training Colleges and construction of infrastructures for Kenya Defense Forces. This was contrary to the provisions of the Fourth Schedule of the Constitution of Kenya, which sets out the functions and powers of the National Government and the County Governments.

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

167. Accumulation of Pending Accounts Payables

Annex 2 of the financial statements reflects a balance of Kshs.2,226,355,163 in respect of pending accounts payables. However, the schedule provided for audit did not reflect details including contract number, local purchase order and local service order for the pending bills amounting to Kshs.2,226,355,163. Review of the supporting schedule revealed that pending bills amounting to Kshs.1,136,973,354 were outstanding for more than two (2) years. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which provides that debt service payments shall be a first charge on the County Revenue Fund. Further, ledgers and other supporting documents were not provided to support the movement from Kshs.3,092,687,339 reported as at 30 June, 2023 to Kshs.2,226,355,163 as at 30 June, 2024. Further, the payment plans, pending bills status reports and ageing analysis reports were not provided for audit and accumulation of pending bills exposes the County Executive to potential legal suits.

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

168. Failure to Operationalize Emergency Fund

The statement of receipts and payments reflects an amount of Kshs.1,145,352,144 in respect of other grants and transfers as disclosed in Note 5 to the financial statements. Included in the amount is Kshs.453,352,964 in respect of emergency relief and refuge assistance and drought contingency of Kshs.223,999,180. The County Executive established Mandera County Emergency Fund on 12 May, 2020 through Section 4 of the Mandera County Emergency Fund Act, 2020 to enable payments to be made when an urgent and unforeseen need for expenditure arises for which there is no specific legislative authority. However, the County Executive did not set aside funds in the annual budget for the emergency fund as required by Section 10 of the Mandera County Emergency Fund Act, 2020.

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

169. Failure to Operationalize Climate Change Fund

During the year under review, the County Executive budgeted for an amount of Kshs.357,865,618 and transferred Kshs.325,046,431 to the Mandera County Climate Change Fund Account. As a result, the County Executive incurred an expenditure of Kshs.45,224,749 for climate change under Financing Locally-Led Climate Action Program ((FLLoCA). The County Executive established County Climate Change Fund through Section 4 of the Mandera County Climate Change Fund Act, 2021 to fund climate change projects, programs and activities provided for in the Climate Finance Framework. However, the Fund was administered by the Chief Officer Environment and Climate instead of the designated Fund Administrator contrary to Section 10 of the Mandera County Climate Change Fund Act, 2021.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

170. Payment of Salaries Outside the Integrated Payroll and Personnel Database

The statement of receipts and payments reflects an amount of Kshs.2,353,982,401 in respect of use of goods and services and as disclosed in Note 3 to the financial statements. Review of payroll records provided by the Human Resources Department revealed that the County Executive maintained both manual and electronic payrolls. One payroll was in the Integrated Payroll and Personnel Database (IPPD) while the other was in excel spreadsheet. The IPPD reflected a total of three thousand seven hundred and sixty-one (3,761) employees while the manual payroll had five hundred and fifty-two (552) employees. As a result, five hundred and fifty-two (552) employees who included four hundred and forty-six (446) National Police Reservist who were engaged temporary basis were paid a total of Kshs.188,987,235 through the manual payroll. The use of the manual payroll requires manual input of data and calculation of deductions which is prone to errors and manipulation.

In the circumstances, existence of effective control mechanisms on the payroll could not be confirmed.

171. Failure to Publish Finance Manual

Review of manuals in place revealed that the County Treasury did not publish financial manuals during the year under review. This was contrary to Section 91(1) of the Public Finance Management (County Government) Regulations, 2015 that requires a County Treasury to publish financial manuals and forms which may be used by County Government entities to support implementation of these Regulations.

In the circumstances, the risk of failure to prepare and use the finance manual to implement financial regulations as required could not be confirmed.

172. Failure to Insure County Buildings

The statement of receipts and payments reflects an amount of Kshs.2,353,982,401 in respect of use of goods and services as disclosed in Note 3 to the financial statements. Included in the expenditure is an amount of Kshs.380,016 which was incurred as insurance costs. Review of the expenditure revealed the that the County buildings did not have insurance cover to mitigate against losses in case of a disaster contrary to Section 79(2)(c) of the Public Finance Management Act, 2012 which requires a public officer within his area of responsibility to ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property including application of best office to prevent any damage from being done to the financial interest of the County Government. Failure to secure insurance cover for County buildings exposed the Government to potential losses and undermines the financial protection measures intended by the legislation.

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

173. Weaknesses in Management of Fixed Assets

Annex 6 of the financial statements on summary of fixed assets reflects Kshs.42,723,737,078 being total assets owned by the County Executive as at 30 June, 2024. However, the County Executive did not have in place policies and procedures relating to asset management and the non-current assets were not physically inspected on a regular basis. Further, the County Executive did not maintain a register of land and buildings recording each parcel of land and the terms on which it was held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, leasehold terms, maintenance contracts and other pertinent management details as required by Regulation 136(1), (2), (3), (4), (5) of the Public Finance Management (County Government) Regulations, 2015.

In the circumstances, the security and safety of the County Executive assets could not be confirmed.

174. Lack of Risk Management Policy

Review of the internal control environment revealed that Management did not put in place a Risk Management Policy, Fraud Prevention Mechanism and Operational and Disaster Recovery Plan. This was contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism a system of risk management and internal controls that builds robust business operations.

In the circumstances, the security and reliability of the County Executive's data including the management information system could not be confirmed.

COUNTY EXECUTIVE OF MARSABIT – NO.10

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

175. Non-Acknowledgement of Funds Transferred to Other Government Agencies

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.902,201,733 in respect to other grants and transfers. Receipts documents provided for audit including ledgers reflects an amount of Kshs.595,527,953 in respect to funds transferred to other Government agencies. However, no supporting documents including acknowledgement receipts from the recipient institutions were provided for audit.

In the circumstances, the accuracy and completeness of Kshs.595,527,953 could not be confirmed.

176. Unsupported Legal Fees

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.678,584,764 in respect of use of goods and services which includes an amount of Kshs.57,316,824 classified as operating expenses out of which an amount of Kshs.10,300,000 is in respect of legal fees. The County Public Service Board procured legal services from a law firm to defend a civil case in Court where the plaintiff sued for an amount of Kshs.1,028,000 in damages arising from the unlawful detention of a motor vehicle. However, the following issues were noted:

- i) There was no evidence of the application of the Advocates Remuneration Order of 2014 for determining legal fees. The fees amount of Kshs.3,300,000 was charged as legal fees for a compensation case, an amount disproportionate to the claimed damages of Kshs.1,028,000. Further, the County Executive lost the case and was ordered by the Court to pay the damages claimed by the plaintiff of Kshs.1,028,000 together with the suit's cost. This resulted in a total expenditure of Kshs.4,328,000, including Kshs.3,300,000 in legal fees, leading to potential loss of public funds.
- ii) The legal fee amount of Kshs.2,820,000 in the fee note lacked a detailed breakdown to support how the amount was derived or to confirm compliance with the Advocates Remuneration Order of 2014.

In the circumstances, the accuracy and regularity for the expenditure totalling Kshs.4,328,000 paid in legal fees and compensation for damages could not be confirmed.

177. Irregular Motor Vehicle Insurance Payments

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.678,584,764 in respect of use of goods and services which includes an amount of Kshs.62,203,203 in respect to insurance costs which further includes expenditure of Kshs.16,561,854 paid for motor vehicle

insurance cover in the year under review. However, the following anomalies issues were observed:

- i) Insurance records revealed that fifty-two (52) motor vehicles valued at Kshs.134,000,000 were included in the list of the County Executive's list of insured vehicles. Review of motor vehicle records revealed that the vehicles were either grounded or unserviceable during the insured period. Despite this, the County Executive irregularly paid a premium an amount of Kshs.4,119,301. This was contrary to Article 201(d) of the Constitution of Kenya, 2010 which provides that public money shall be used in a prudent, economical and responsible way.
- ii) In addition, the list of insured motor vehicles included six (6) motor vehicles bearing duplicate registration numbers, valued at Kshs.18,600,000. These vehicles were insured as separate assets, resulting in an irregular double insurance premium amount of Kshs.558,000.

In the circumstances, the accuracy and regularity of the expenditure totalling Kshs.16,561,854 spent on motor vehicle insurance could not be confirmed.

178. Irregular Payment of Special House Allowances

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.3,007,441,497 in respect of compensation of employees which includes an amount of Kshs.59,808,307 personal allowances paid as part of salary. This component further includes an amount of Kshs.1,162,080 paid as special house allowance during the year under review to twenty (20) county employees hired after 10 December, 2014 when the terms and conditions of service in the Public Service had been determined by the Salaries and Remuneration Commission Circular Ref. No SRC/ADM/1/13 Vol. III (126) of 10 December, 2014 which did not permit the payment of the special house allowances.

In the circumstances, the accuracy and completeness of personal allowances paid as part of salary totalling Kshs.59,808,307 could not be confirmed.

179. Misclassification of Expenditure

179.1 Other Operating Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.678,584,764 as disclosed in Note 4 to the financial statements which includes an amount of Kshs.57,316,824 in respect to other operating expenses. However, an amount of Kshs.7,937,309 was paid to staff members in respect of domestic travel and subsistence allowances but was charged to operating expenses. This was contrary to Section 154 (2) of the Public Finance Management Act, 2012, which states that an accounting officer for a county government entity may reallocate funds between programs, or between sub-votes, in the budget for a financial year, but only if provisions made in the budget of a program or sub-vote are available and are unlikely to be used.

179.2 Other Grants and Transfers

The statement of receipts and payments reflects a total amount of Kshs.902,201,733 in respect to other grants and transfers as disclosed in Note 7 to the financial

statements which includes an amount of Kshs.645,169,883 in respect to other grants and transfers. An analysis of expenditure details revealed payments of Kshs.75,216,016 in respect to payment to various suppliers but which had been charged to other grants and transfers contrary to Regulation 41(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which require that aggregate reallocations for a particular appropriation line in a given fiscal year not exceed the amount appropriated for that line in the annual Appropriations Act amended from time to time through budgetary reallocations.

In the circumstances, the accuracy and completeness of the misclassified expenditure amounting to Kshs.702,486,707 could not be confirmed.

180. Inaccuracies in Accounts Payables

Note 1 under other important disclosures reflects total amount of Kshs.403,539,755 in respect to pending payables paid during the year under review. However, Management did not explain why pending payables amounting to Kshs.228,456,192 brought forward from previous years were not treated as a first charge against the expenditure for the 2023/2024 financial year and paid in full. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015, which requires that debt service payments shall be a first charge on the County Revenue Fund.

Further, out of payables from previous years totalling Kshs.403,539,755 and settled in the year under review, only payables from previous years totalling Kshs.316,179,355 were confirmed as having been listed and disclosed in the audited financial statement for the 2022/2023 resulting to unexplained settlement of payables balance of Kshs.87,360,400.

In the circumstances, the accuracy, existence, and regularity of the expenditure on payables from previous years could not be confirmed.

Emphasis of Matter

181. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year under review reflects final receipts budget and actual on comparable basis of Kshs.8,107,949,379 and Kshs.6,911,278,809 respectively, resulting to under-funding of Kshs.1,196,670,570 or 15% of the budget. However, the County Executive spent an amount of Kshs.6,592,073,216 against actual receipts of Kshs.6,911,278,809 resulting to an under-expenditure of Kshs.319,205,591 or 5% of the actual receipts.

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

My opinion is not modified in respect of this matter.

Other Matter

182. Prior Year Unresolved Issues

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

Report on Effectiveness of Internal Control, Risk Management and Governance. However, although Management indicated that some of the issues had been resolved, the matters remained unresolved as the Senate and County Assembly had not met to deliberate on the same.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

183. Wasteful Expenditure on Foreign Travel and Subsistence

The statement of receipts and payments and as disclosed in Note 4 to the financial statements, reflect an amount of Kshs.678,584,764 in respect of use of goods and services which includes an amount of Kshs.14,154,462 in respect to expenditure on foreign travel and subsistence allowances out of which an amount of Kshs.3,399,484 was spent on foreign travel daily subsistence allowances and air tickets for three (3) county officers who travelled on 29 November, 2023 to the United Kingdom(UK) to receive three (3) donated used Mercedes Benz ambulances. However, at the time of audit in September, 2024, only one (1) ambulance had been delivered to the County Executive of Marsabit.

In the circumstances, value for money for a total amount of Kshs.3,399,484 spent on foreign travel and subsistence allowances could not be confirmed.

184. Non-Compliance with the Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.3,007,441,497 representing 44% of the total revenue received of Kshs.6,759,079,399. This was contrary to Regulation 25(1)(a) and (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 thirty-five per cent (35%) of the total County revenue.

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

185. Irregular Commitments for Supply of Goods and Services

Review of procurement records revealed that seventy-three (73) sets of expenditure commitments and contracts for various supplies of goods and services totalling Kshs.159,250,917 were made after 31 May, 2024 without the written approval of the Accounting Officers. This was contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that all commitments for the supply of goods or services shall be done not later than the 31 May each year except with the express approval of the Accounting Officer in writing.

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

186. Anomalies in Projects Implementation

186.1 Supply and Delivery of 5000 Litres Water Tanks to Households

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects an amount of Kshs.1,953,845,222 in respect to acquisition of assets which includes an amount of Kshs.443,505,099 in respect to construction and civil works. The amount includes a total of Kshs.22,500,000 spent by the Department of Water Services on the purchase of 450 water tanks each with capacity of 5,000 litres. The tanks were distributed to individual households. However, there was no evidence of monitoring and evaluation mechanisms to assess the effectiveness of the distribution or to evaluate the initiative's impact on improving water accessibility for the community.

186.2 Construction of Level 4 Hospital at Sololo-Makutano

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects a total of Kshs.1,953,845,222 in respect of acquisition of assets which includes an amount Kshs.182,498,633 on construction of buildings. The County Executive engaged contractors for construction of Level 4 Hospital at Sololo-Makutano for a contract sum of Kshs.483,369,790. The commencement date was 1 July, 2019, with the original completion date of 25 February, 2021.

However, review of the project documents provided for audit and physical inspection in September, 2024 revealed the following:-

- i) Certificate of practical completion had not been issued. The National Treasury issued directives of projects completion through Treasury Circular No.7/2023, Reference No.ES1/03 'U' (2) dated 21/06/2023 which required the County Government to fast-track project implementation to ensure value for money and efficient use of budgetary allocations. The County Executive failed to adhere to this circular.
- ii) As at 9 June, 2023, the amounts due for interest on delayed payments for certificate Numbers IPC 7, IPC 9, IPC 10 and IPC 11 amounted to Kshs.2,087,798. These interest charges, along with penalties, increased the contract price, resulting in a financial burden on public funds.
- iii) Section 7.9 of the Sub-contract agreement stipulates that the sub-contractor shall execute the works diligently within the extended contract period. However, there were no evidence to show the planned activities that were supposed to be executed in the agreed contract extension period.
- iv) The contract price, initially at an amount of Kshs.483,363,790, was revised upwards to Kshs.534,767,978, resulting in a variation of Kshs.51,398,188, but no justification for this price increase was provided for audit.
- v) The net variation raised by the contractor vide a letter dated 11 September, 2023 attaching valuation of the bills of quantities amounted to Kshs.131,854,924 and interest on delayed payments of Kshs.2,087,789 both totalling Kshs.133,942,713. This led to discrepancies in the cost estimates, with differences of Kshs.53,575,435 by the Ministry of Public Works and County Quality Surveyor/ Architect amounts by Kshs.30,627,188.

- vi) Section 139(4) of the Public Procurement and Asset Disposal Act, 2015 requires that the quantity variation of works does not exceed twenty percent of the original contract's quantity. The contractor's claim of Kshs.133,942,713 exceeded the legal limit by 28%.
- vii) The County Works Officer raised an amount of Kshs.20,000,000 in respect to contingencies, but no evidence was provided on how these funds were utilized.

186.3 Irregularities in the Drilling and Equipping of New Godoma Community Borehole

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects a total of Kshs.1,953,845,222 in respect of acquisition of assets which includes an amount of Kshs.443,505,099 on construction and civil works. Management awarded a tender for drilling and equipping of New Godoma Community Borehole at a contract price of Kshs.4,995,000. However, the following issues were noted:

- i) Management did not provide a Hydrological Assessment Report outlining the aquifers parameters, water quality evaluation, recharge impacts and geotechnical analysis of the proposed borehole.
- ii) The contractor failed to provide authorization letter to drill a borehole from the Water Resources Authority (WRA).

186.4 Solid Waste Management Services in Saku Central

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects Kshs.678,584,764 in respect of use of goods and services which includes an amount of Kshs.104,724,299 on specialized materials and services. The County Executive through Department of Energy, Lands and Urban Development awarded a tender for the provision of solid waste management services in Saku Central at a cost of Kshs.17,520,800. However, the following issues were noted:

- i) There was no evidence provided by the Department of Energy, Lands and Urban Development to demonstrate the strategy for improving waste collection, material recovery and waste disposal. However, it was not possible to establish the rationale behind the County Executive's decision to adopt a franchise system, which lacked supporting legislation or by-laws, to delegate waste collection and transportation to private investors while limiting the County Executive's role to regulation.
- ii) There was no evidence of comprehensive assessment and appraisal conducted by the County representatives and the contractor, nor was there an inspection report in a format prescribed by the Department.
- iii) Procuring entity did not submit to National Environment Management Authority (NEMA) a project report in prescribed form for an environmental impact assessment for the nature of the service provided contrary to Chapter 3.2 of Public Procurement Oversight Committee Manual on procurement and management of projects.

186.5 Upgrading of Moyale Town Roads to Bitumen Standard

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects a total of Kshs.1,953,845,222 in respect of acquisition of assets which includes an amount of Kshs.176,077,448 on construction of roads. Contract records revealed that the County Executive awarded tender to a contractor at a contract price of Kshs.369,253,508 for the upgrading of Moyale town roads to bitumen standard. During the year under review, the contractor was paid an amount of Kshs.138,126,226. However, the following issues were noted:

- i) The Project to upgrade Moyale town roads to bitumen standard, valued at an amount of Kshs.369,253,508 started on 15 May, 2019. However, as at the date of audit on 6 September, 2024, over three (3) years after the project commenced, the road upgrade had not been completed. This indicated significant delay and inefficiencies and failure to effectively manage the project-based on the contract timelines.
- ii) A provision of an amount of Kshs.2,200,000 was made for HIV/AIDS awareness activities in Bill number 24 of the Bill of Quantities. However, no evidence was provided to show the implementation of the HIV/AIDS awareness programs during the construction period.

186.6 Stalled, Incomplete and Unused Projects

Review of the County's Project Implementation Status and field inspection conducted in September, 2024 revealed that out of the six (6) projects inspected, three (3) projects were incomplete, two (2) were complete but not in use while construction of an elevated tank at Figo n Turbi was not done.

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

187. Procurement Processes and Procedures

187.1 Irregularities in the Procurement of Supply and Delivery of Cereals

The statement of receipts and payments and as disclosed in note 7 to the financial statements reflect an amount of Kshs.902,201,733 in respect to other grants and transfers which includes an amount of Kshs.645,169,883 grants and transfers to the Departments of County Executive and Administration and ICT for drought mitigation program and resilience building in the County/pro-poor programs in the year under review. The funds were spent on procurement, supply and delivery of relief food commodities to various wards in the County together with related activities to assist the vulnerable members of the community. Procurement records provided for audit including payment vouchers revealed that the County Executive paid Kshs.476,748,120 to various suppliers for supply and delivery of cereals, pulses and miscellaneous foodstuffs under framework agreement. However, the following issues were noted:

- i) There was no evidence of competitive process for identifying the suppliers from the framework agreement contrary to Section 114(3) of the Public Procurement and Asset Disposal Act, 2015. The Act requires procuring entities to use call-off orders or mini-competitions among pre-qualified suppliers under framework agreements.

- ii) Analysis of the successful suppliers' details revealed that some had identical postal addresses and telephone contact numbers, raising concerns that these suppliers could be owned by the same individuals. Additionally, some listed suppliers lacked postal addresses or contact details, casting doubt on their existence and the criteria used for their selection.
- iii) The County Executive contracted a transporter to transport and deliver the foodstuffs to the wards and beneficiaries at a cost of Kshs.8,570,770. However, there was no evidence that a competitive procurement method was used to procure the transporter's services. Although the County Executive stated that the procurement method used for this procurement was framework agreements, the supplier was not in the list of framework suppliers.

187.2 Irregular Procurement of Consultancy Services for the Development and Review of County Integrated Development Plan 2023-2027

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects an amount of Kshs.1,953,845,222 in respect to acquisition of assets which includes an amount of Kshs.914,523,460 in respect to research studies, project preparation, design and supervision. The County Executive paid amounts of Kshs.3,000,000 and Kshs.2,900,000 respectively to a consultant for the provision of consultancy services in developing and reviewing the County Integrated Development Plan (CIDP) 2023-2027. Requests for quotation was used as the preferred procurement method for sourcing the consultant. However, the winning consultant was not in the list of prequalified lists of suppliers. This was contrary to Section 118(2) of the Public Procurement and Asset Disposal Act, 2015 which requires the accounting officer of a procuring entity to invite expression of interest for consultancy services to utilize the list of prequalified suppliers.

187.3 Irregularities in Procurement of Routine Maintenance of Motor Vehicles and Other Equipment

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.678,584,764 in respect of use of goods and services which includes an amount of Kshs.38,079,247 on routine maintenance of vehicles and other transport equipment. However, review of records provided for audit revealed the following anomalies:

- i) Pre-inspection and post inspection reports for a sample of repaired county motor vehicles in the year under review were not provided for audit.
- ii) Pre-inspection and post inspection reports for repaired generators at Forolle borehole, Bulelalesa borehole, Adadi borehole and Ririma borehole were not provided for audit.
- iii) The odometers for the sampled motor vehicles were faulty.

187.4 Un-Approved Expenditure on Comprehensive Staff Medical Cover

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects a total of Kshs.678,584,764 in respect of use of goods and services which includes an amount of Kshs.62,203,203 in respect to insurance costs out of which an amount of Kshs.47,203,203 was paid for staff medical insurance cover in the year under review. Management awarded a comprehensive staff medical cover to an

insurance firm for Kshs.79,811,929. However, the approved budget for staff medical insurance was Kshs.60,000,000 resulting to overspending of the budget by an amount of Kshs.19,811,929. This was contrary to Section 45(3)(a) of Public Procurement and Asset Disposal Act, 2015 which states that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan.

In the circumstances, Management was in breach of the law and value for money of the funds spent on the above expenditure could not be confirmed.

188. Irregular Funding of National Government Functions

Review of contract documents revealed that Management awarded a contract to a supplier for supply and deliver chairs and wooden lockers to Goro Rukesa Mixed Secondary School at a cost of Kshs.1,595,000. This expenditure, related to a National Government function, was not included in the County Executive's approved budget for the year under review and was charged to the expenditure on other capital grants and transfers. Further, this payment contravened the provisions of Part 1(16) of the Fourth Schedule of the Constitution of Kenya, 2010 which stipulates that primary schools, special education, secondary schools and special education institutions are functions of the National Government.

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

189. Non-Compliance with Budget Formulation and Expenditure Classification Requirements

Review of the Budget formulation process revealed that although Marsabit County Appropriation Bill, 2023 was assented to by the Governor on 08 December, 2023. A comparison of the Appropriation Bill with the County Fiscal Strategy Paper submitted to the County Assembly revealed that the County Secretary's and the County Attorney's Offices were not included in the approved County Fiscal Strategy Paper. Further, development expenditure items amounting to Kshs.32,426,305 across various departments were classified and listed under recurrent expenditure in the departmental budgets. This misclassification led to an overstatement of the departmental recurrent budgets.

In addition, the development budget estimates were not program-based contrary to Regulation 30(1)(c) of the Public Finance Management (County Governments) Regulations, 2015 which requires budget proposals to be submitted in the prescribed formats that support program-based budgeting and classification of expenditure in economic classes.

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

190. Irregularities in the Management of County Government Vehicles and Fire Equipment

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.678,584,764 in respect of use of goods and services which includes an amount of Kshs.38,079,247 on routine maintenance of vehicles and other transport equipment. Review of the County Executive's vehicle fleet, which comprises one hundred and fifty-nine (159) vehicles, revealed the following:

- i) Out of the total one Hundred and fifty-nine (159) County Executive's vehicles, only fifty-five (55) vehicles were operational, while fifty-seven (57) were in a state of disrepair and forty-seven (47) were grounded and unserviceable. Further, Management did not initiate the process of disposing of the unserviceable and grounded vehicles occasioning further deterioration due to wear and tear.
- ii) A report on recommendations for inspection and assessment of the extent of damage to the unserviceable vehicles was not followed, hindering the determination of necessary repairs. Further, fourteen (14) County Executive vehicles were held in private garages for extended period exposing them to risks such as theft and vandalism. Further, parking fees and additional expenses from prolonged storage could result in further financial losses.
- iii) There was no tracking devices and speed limiters on County Executive vehicles hindering effective monitoring, control, and management of the vehicles. This was contrary to Regulation 132(2) of the Public Finance Management (County Governments) Regulations, 2015, which requires the implementation of measures for efficient, economical, and transparent use of motor vehicle assets.
- iv) A fire truck parked at the County Executive Headquarters was un-serviced and unused for a long period. This was the only fire engine in the County, and its inactivity posed a significant risk to emergency preparedness. Further, there was no operational fire status or a functional fire engine yet the County Executive had a fire Department with fourteen (14) staff members as per the IPPD payroll data rendering the staff idle and therefore exposing the public to risk in case of fire incidents.

In the circumstances, the effective use of the County Executive's vehicles and fire truck could not be confirmed.

191. Non-Compliance with the Public Sector Accounting Standards Board Requirements

Annex 8 to the financial statements reflects blank contingent liabilities register. Contingent liabilities arising from litigation in progress and or court decision against the entity which may create a financial obligation in form of fines damages or other financial obligations. However, the County Executive did not provide legal documents on concluded cases and ongoing litigations in the year under review for disclosure in the financial statements. The financial statements are non-compliant with the reporting template issued by Public Sector Accounting Standards Board (PSASB) on the disclosure of the contingent liabilities register.

In the circumstances, Management did not comply with the PSASB requirements.

192. Project Implementation Status

The Project Implementation Status Report provided for audit revealed that seventy-four (74) projects worth Kshs.286,264,407 were completed, six (6) projects worth Kshs.108,600,000 were ongoing, and seven (7) projects worth Kshs.22,100,000 had not started. However, completion status for three hundred and ten (310) projects worth Kshs.3,381,888,608 was not indicated. This may be an indication of inefficiencies in

project planning and control mechanisms to ensure maximum absorption of available funds.

In the circumstances, the public may not have received the expected services from the incomplete projects.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

193. Failure to Maintain an Updated Fixed Assets Register

Annex 6 of the financial statements in respect of summary of non-current assets register, reflects a total of Kshs.2,983,153,611 in respect to historical cost of non-current assets. However, during the year under review, Management did not maintain an updated and accurate fixed assets register. In addition, the County Executive did not have in place an assets policy to govern, procurement, control and disposal of its assets contrary to Section 149(2) (o) of the Public Finance Management Act, 2012.

In the circumstances, the existence of effective measures on security use and condition of County Executive assets could not be confirmed.

194. Use of Manual Payroll

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects Kshs.3,007,441,497 in respect of compensation of employees. However, review of the manual payroll revealed that the County Executive had three hundred and sixty-seven (367) staff members whose salaries were computed manually using excel spreadsheet. No satisfactory explanation was provided for maintaining a huge number of employees over a long period of time on the manual payroll without enrolling them into the Integrated Payroll and Personnel Database. (IPPD).

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

195. Information, Communication and Technology Environment

As reported in the previous year, the County Executive had not put in place an Information Communication and Technology (ICT) strategy, steering committee, ICT security policy, business and ICT continuity plan including an off-site back-up plan to ensure data confidentiality, integrity and availability. Further the County Executive had not established a Disaster Management and Recovery Policies including fire suppression systems contrary to Section 149(2)(c) of the Public Finance Management Act, 2012 which provides that a public entity should ensure that all its records, financial or otherwise kept in electronic form are adequately protected and backed up.

In the circumstances, in the event of a disaster, recovery of vital information lost, safeguard and restoration of its operations could not be confirmed.

196. Lack of Risk Management Policy

Review of policy documents revealed that the County Executive had not put in place a Risk Management Policy, Risk Assessment Reports and Risk register during the year under review contrary to Section 155 (1) (a) of the Public Finance Management Act, 2012 that provides that a county government entity shall ensure that it has appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

In the circumstances, the security and reliability of data including the management information systems could not be confirmed.

197. Lack of a Functioning Audit Committee

Review of the governance structure revealed that although an Audit Committee was appointed on 17 October, 2023 as per the appointment letters provided for audit, one of the members resigned and had not been replaced by September, 2024 rendering the audit committee non-functional due to lack of quorum to meet and carry out its mandate. As a result, audit Committee did not hold any meetings during the year under review.

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

198. Lack of Operational and Functional Independence of Internal Audit Department

Review of the County Executive Internal Audit Department revealed that the Department lacked operational and functional independence due to lack of a functional audit committee in place contrary to Regulation 155(1) of the Public Finance Management (County Governments) Regulation, 2015 which requires the Head of the Internal Audit unit in a county government entity to enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

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

COUNTY EXECUTIVE OF ISIOLO – NO.11

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

199. Long Outstanding Pending Accounts Payables

Note 15(i) to the financial statements on other important disclosures reflects a balance of Kshs.1,242,393,771 in respect of the pending bills accounts payable. These payables related to 2013/2014, 2014/2015, 2017/2018, 2018/2019, 2019/2020, 2021/2022, 2022/2023 and 2023/2024 financial years which were not prioritized as first charge on the County Revenue Fund contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015. In addition, support documentations including purchase and service orders contract agreements, invoices and other procurement documentations were not provided for audit.

Further, an amount of Kshs.250,531,088 was used during the year under review to settle payables from previous years. However, payables totalling Kshs.109,109,122 were not included in the prior year financial statements. In addition, pending accounts payables totalling Kshs.13,118,500 as shown below were charged under construction of buildings instead of specialized materials and services:

LPO/LSO Contract No.	Date of the LPO/LSO Contract No.	Details of Works Performed	Outstanding Pending Bill Amount as at 30 June, 2024 (Kshs.)
393	28/06/2024	Supply of animal vaccines	2,200,000
1596277	30/04/2024	Tree planting in Wabera Ward	2,693,500
1596276	30/04/2024	Tree planting in Merti town	2,635,000
1596272	13/05/2024	Cleaning and unclogging of Marire River 4km	2,805,000
1596271	13/05/2024	Cleaning and unclogging of Isiolo River 5km	2,785,000
Total			13,118,500

In the circumstances, accuracy and completeness of pending accounts payables could not be confirmed.

200. Irregular Payment of Overtime and Extraneous Allowances

Note 3 to the financial statements reflects an amount of Kshs.2,082,321,741 in respect of compensation of employees which includes Kshs.808,433,754 in respect of personal allowances paid as part of salary which further includes Kshs.1,426,900 paid to members of staff working overtime. However, the officers job groups and personal numbers were not provided for audit and as such their eligibility for the allowance could not be confirmed. This was contrary to Section E.2.2.11(1) of Isiolo County Public Service Board Human Resource Policies and Procedures Manual July, 2018 which provides that overtime allowances are only payable where an officer is in Job Group 'J' and below, over time is approved by the Chief Officer, overtime worked is in excess

of forty (40) hours per week and paid at a rate of one and a half (1½) times the officer's basic salary.

In addition, key details such as the hours worked, signed attendance master rolls and approvals by the departmental heads for the payment of overtime allowances were also not provided for audit.

In the circumstances, the accuracy and completeness of compensation of employees of Kshs.1,426,900 could not be confirmed.

Other Matter

201. Prior Year Unresolved Issues

In the previous audit report several issues were raised under Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Control, Risk Management and Governance. However, the matters remained unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

202. Regularity of Human Resource Management Practices

202.1 Non-Compliance with National Cohesion and Integration Act, 2008

The statement of receipts and payment and as disclosed in Note 3 to the financial statements reflects Kshs.2,082,321,741 in respect of compensation of employees. However, review of the payroll for the Month of June 2024 revealed that the County Executive had a total of one thousand seven hundred and seven (1707) employees out of which eight hundred and five (805) or approximately 47% were from the dominant ethnic community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community.

202.2 Non-Compliance with Fiscal Responsibility on Wage Bill

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.2,082,321,741, representing 46% of the total revenue received of Kshs.4,522,730,268. This was contrary to Regulation 25(1)(a) and (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 thirty-five (35%) of the total County revenue.

202.3 Retention of Staff Aged Over Sixty Years

Review of the Integrated Payroll and Personnel Database (IPPD) revealed that twenty-nine (29) employees were over sixty (60) years beyond the mandatory retirement age

and were not in the category of persons living with disabilities (PWD's). This was contrary to Section 80(1) of the Public Service Commission Act, 2017 which provides that where a public officer has attained the mandatory retirement age as may be prescribed in regulations, the public officer shall retire from the service with effect from the date of attaining the mandatory retirement age;

202.4 Over Commitment of Salaries

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects Kshs.2,082,321,741 in respect of compensation of employees. However, review of the IPPD payrolls revealed that twenty-nine (29) employees received net pay which was below one-third (1/3) of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee shall not exceed two-thirds of such wages.

202.5 Lack of Human Resource, Skills Inventory and Succession Management Plans

Note 3 to the financial statements reflects Kshs.2,082,321,741 in respect of compensation of employees. The County Executive payroll comprised of one thousand seven hundred and seven (1707) employees. However, Management did not prepare human resource plans in accordance with Section D.4 of Isiolo County Public Service Board Human Resource Policies and Procedures Manual of July, 2018 which provides that every department shall prepare human resource plans to support achievement of goals and objectives in their strategic plans.

In addition, the County Executive did not have in place skills inventory and succession management plans to guide future promotions and seamless hand over as provided in Section M.14 of Isiolo County Public Service Board Human Resource Policies and Procedures Manual which provides that Authorized Officers shall develop, analyze, update and maintain a comprehensive skills inventory for all staff in their respective departments for purposes of identifying the available and the required skills.

202.6 Unlawful Creation of Employment Positions

202.6.1 Engagement of Excess Advisors

Review of payroll and human resource records revealed that the County Executive had thirty-six (36) advisors on multiple aspects in the County Executive Management. This was contrary to the guidelines of the Salary and Remuneration Commission (SRC) Circular dated 29 July, 2013 which limits the maximum number of appointees to the position of advisors to four (4) individuals.

202.6.2 Excess County Chief Officers and Deputy County Secretaries

Human resource records revealed that the County Executive had appointed thirty-one (31) County Chief officers to head multiple departments instead of eighteen (18) which are provided for in the County Executive staff establishment of July, 2022. In addition, the County had in position two Deputy County Secretaries which were not provided for in the County Executive's staff establishment.

In the circumstances, Management was in breach of the County's Human Resource Policy.

203. Regularity of Procurement and Award of Contracts

203.1 Non-Compliance with Reporting Requirements for Contract Awards

During the year under review, the County Executive procured goods, services and works through various contracts signed between the County Executive and suppliers. However, no evidence was provided to confirm that the procurements were reported to Public Procurement Regulatory Authority as required by Section 138(1) and (2) of the Public Procurement and Asset Disposal Act, 2015 and Regulation 131(1) (b) of Public Procurement and Asset Disposal Regulation, 2020 which stipulates that an accounting officer of a procuring entity shall report all contract awards to the Authority.

203.2 Irregularities in the Award of Contract for the Development of Isiolo County Spatial Plan 2023/2033

Note 8 to the financial statements reflects an amount of Kshs.702,259,516 in respect of acquisition of assets. Included in the amount is Kshs.24,119,480 spent on research studies, project preparation, design and supervision which further includes Kshs.19,694,480 paid to a company for development of Isiolo County Spatial plan 2023-2033 at a contracted sum of Kshs.98,472,400. However, the following anomalies were noted:

- i) The County Executive awarded the tender to a company at a contract sum of Kshs.98,472,400 instead of the lowest bidder who had quoted Kshs.62,173,448. This was contrary to Section 86(1) of the Public Procurement and Asset Disposal Act, 2015 which states that the successful tender shall be the tender with the lowest evaluated price.
- ii) The lowest bidder was disqualified during financial evaluation on the grounds that their quotation was abnormally low and would potentially fail to deliver the contract as per Section 27 of the tender documents.
- iii) The County Executive did not follow the required procedure outlined in the tender document of seeking written clarification from the bidder, including a detailed price analysis of the bid in relation to the contract's scope, delivery schedule, allocation of risks and other request for proposal requirements. No evidence was provided to confirm that the County Executive determined the bidder's inability to deliver the contract at the quoted price.

203.3 Delay in Completion of Isiolo Municipality Market

Note 8 to the financial statements reflects an amount of Kshs.702,259,516 in respect of acquisition of assets which includes an amount of Kshs.94,139,291 for construction of buildings. Included in the amount is Kshs.83,825,151 paid to a company for the construction of a modern market in Isiolo at a contract sum of Kshs.545, 211,810 out of which the contractor had been paid a cumulative amount of Kshs.366,626,237 (67%). Review of the contract documents revealed the following issues:

- i) A report by Isiolo County Public Works during a meeting held on 12 August 2024 stated that the project was 80% complete despite the initial completion date of 30 June, 2021. The project was delayed by seventy-two (72) months since the contract was signed on 25 June, 2018. Management did not provide justification for the delay.
- ii) An inspection report dated 6 July, 2022 signed by the architect and project manager indicated the revised completion date as December, 2022 and proposed a comprehensive re-measurement of the entire project to capture changes and allowable fluctuations. However, there was no evidence that this re-measurement was carried out as recommended.
- iii) Valuation report No. 2 reflected under item 9(g) comprised of other works amounting to Kshs.7,000,000. However, the specific details of these other works were not clear.
- iv) Payment totalling Kshs.30,000,000 for Certificate No. 10 dated 30 May, 2024 was made without a monitoring and evaluation report as provided for in the other conditions of the contract section B (i) which states that the employer shall independently carry out its own monitoring and evaluation of the works done regardless of any certificate issued by the Works Officer/Project Supervisor prior to payment.
- v) On 6 June, 2023, the contractor acknowledged receipt amount of Kshs.25,666,160 and gave notice of resuming work implying that at some point the contract had been put on hold. Further, the contractor cited significant increases in the prices of materials and indicated a variation in interim payment certificate of Kshs.5,021,151.93. This was contrary to Section 139(4) of the Public Procurement and Asset Disposal Act, 2015 which requires that for the purposes of Section 47 (b) of the Act, any variation of a contract shall be effective only if the price variation is based on the prevailing consumer price index obtained from Central Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya.

203.4 Procurement Irregularities in Upgrading of Isiolo Abattoir to International Standards

Note 8 to the financial statements reflects an amount of Kshs.702,259,516 in respect of acquisition of assets. Included in the amount is Kshs.313,470,571 spent on infrastructure and civil works, which includes transfers amounts of Kshs.130,000,000 and Kshs.70,000,000 all totalling Kshs.200,000,000 to the Isiolo Export Abattoir Account, for executing the Kenya Climate Smart Agriculture Projects. Review of contract records revealed that Management engaged a company to upgrade Isiolo Abattoir to international standards with a contract sum of Kshs.169,746,482. However, the following anomalies were noted:

203.4.1 Irregular Appointments

Four (4) members of the tender opening committee, appointed on 28 February, 2023, were also appointed to the tender evaluation committee. This was contrary to Regulation 24.(1) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that for purposes of internal controls, the procuring entity shall have

segregated responsibilities in the establishment of all relevant committees under section 44(2) (b) of the Act.

203.4.2 Irregular Notifications of Award and Regret Letters

The successful bidder was notified of the award on 24 March, 2023 and the regret letters for unsuccessful bidders were released on 27 March, 2023. This was contrary to Regulation 82(1) of the Public Procurement and Asset Disposal Regulations, 2020, which requires that notifications to unsuccessful bidders be made simultaneously with the notification to the successful bidder.

203.5 Irregular Procurement of Cleaning Services

Note 4 to the financial statements reflects Kshs.605,410,480 in respect of use of goods and services. Included in the amount is Kshs.64,446,340 in respect of other operating expenses. Included in the payment is an amount of Kshs.5,900,000 made to a company for provision of cleaning services in Isiolo town. However, detailed description of the nature and extent of cleaning services required was not captured in the department requisition. In addition, there were no daily cleaning reports or schedule to confirm if the cleaning services were actually offered. Further, the services were procured using the request for quotations method at a cost exceeding the Kshs.3,000,000 maximum threshold set in the Second Schedule of the Public Procurement and Asset Disposal Regulations, 2020. Further, tender opening minutes and tender evaluation minutes, were not provided for audit.

203.6 Irregularities in Sourcing and Award of Security Services Contract

Note 4 to the financial statements reflects an amount of Kshs.605,410,480 in respect of use of goods and services, included in the amount of Kshs.64,446,340 in respect of other operating expenses which further includes a payment of Kshs.2,040,000 made to a company for provision of security services. However, the following issues were observed:

- i) The contract for provision of security services between the company and Isiolo County Executive did not indicate the contract period or ending date. Further, the signature of the winning bidder in the quotation document, and letter of acceptance dated 27 September, 2023 was different with the one in the contract.
- ii) Quotation documents were not dated and did not indicate the deadline for submission of the bid documents neither had the services providers who quoted signed nor dated their quotation documents.
- iii) Date of opening of the quotations was not indicated in the quotation documents.

In the circumstances, Management was in breach of the law and value for money for the above expenditure could not be confirmed.

204. Irregularities in Imprest Management

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.605,410,480 in respect of use of goods and services which includes an amount of Kshs.131,984,124 spent on domestic travel and

subsistence allowance. Included in the amount is Kshs.25,818,600 advanced in form of Imprest advanced to various officers to carry out official duties. However, the following unsatisfactory matters were noted:

- i) Imprest was drawn and used to make cash procurement of goods and services for amounts which exceeded the threshold provided for low value procurement by the Public Procurement and Asset Disposal Regulations, 2020.
- ii) Advances were made to facilitate activities held in Nairobi and other towns which could have been conveniently carried out in Isiolo, casting doubts on effectiveness in use of public resources.
- iii) Transport reimbursements and allowances were paid to the participants of County Executive organized events with no policy guideline on the rates and approval of payment to members of the public.
- iv) A significant portion of allowances had no evidence of invitation letters, signed attendance, list and program of activities for the participants and back to office reports.
- v) Payment of allowance to staff members while still at their duty station with no clearly defined roles. Further, imprests were paid out without an imprest warrant contrary to Regulation 91(2) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, Management was in breach of law.

205. Stalled Projects

205.1 Stalled Construction of Isiolo Municipal Stadium Phase I

The County Executive engaged a construction company for the construction of Isiolo Municipal Stadium at a contract sum of Kshs.345,998,315. The project commenced in May 2019 and was scheduled for completion in December, 2020 with a project period of twenty (20) months. However, as at June, 2022 the project had stalled and the contractor had been paid a total of Kshs.231,622,838 or 67% and completion status of 67% according to the Ministry of Public Works. As at the time of audit in September, 2024, the project had been delayed by forty-four (44) months exceeding the original contract period of twenty (20) months.

205.2 Stalled Construction of Isiolo County Headquarters

The National Government through the State Department of Public Works in conjunction with the County Executive commenced construction of the County headquarters on 4 March, 2019. The project was to cost Kshs.870,706,011 but was revised to Kshs.556,905,703 based on the guidelines provided by the National Government. At the time of audit in September, 2024, the project was incomplete despite payments totalling Kshs.180,396,810 having been paid, representing approximately 32% of the contract sum. Although the project was contracted and managed by the Ministry of Public Works at the National Government level, physical inspection revealed that the project had stalled. Additionally, Kshs.60,000,000

allocated for the project in the 2023/2024 County budget was not funded by The National Treasury.

Further, review of records revealed that the County Executive paid an amount of Kshs.33,812,876 in respect to rentals of produced assets on payments of rent to accommodate various County offices in private residences despite incurring Kshs.180,396,810 over a five-year period to construct the County headquarters.

In the circumstances, the County Executive did not receive value for money spent in the project.

206. Anomalies in Projects Implementation

The statement of receipts and payments and as disclosed in Note 8 to the financial statement reflects an amount of Kshs.702,259,516 in respect of acquisition of assets. Included in the amount is Kshs.28,629,737 spent on construction of classrooms and rehabilitation of roads. However, physical inspection of the projects revealed several inadequacies and poor workmanship.

In the circumstances, the value for money for the expenditure totalling Kshs.28,629,737 could not be confirmed.

207. Anomalies in Construction of Accident and Emergency Centre at Isiolo County Referral Hospital

Note 5 to the financial statements reflects Kshs.687,114,437 in respect of other grants and transfers, which includes Kshs.364,063,937 on other capital transfers and grants included in the amount is Kshs.32,955,140 paid to a contractor for the construction of accident and emergency centre at Isiolo County Referral Hospital for a contract sum of Kshs.89,264,215. The commencement date was 5 August, 2022, while the original completion date was projected to be 4 August, 2023. According to the project status report, payments amounting to Kshs.81,368,305 had been paid to the contractor.

However, review of the project file and physical inspection carried out on September, 2024 revealed the following:

- i) While the original completion date was projected to be 4 August, 2023 and the last revised and approved completion date was 31 December, 2024, as at the time of audit in September, 2024 the project had not been completed, there was no progress report detailing the project status. Physical inspection of the project revealed that the contractor's materials, plant and equipment were not on site, there was no sign of work in progress despite the fact that the project was behind schedule by 1 year and 1 month. There were no revised work programs submitted by the contractor to the project Manager indicating how the remaining works was to be carried out.
- ii) Payment certificates No.4 and No.5 dated 23 February, 2024 and 26 April, 2024 for Kshs.23,819,432 and Kshs.9,135,708 respectively revealed that the statement for payment on account did not show how the certificates total was arrived at on the valuation of work done by the contractor. therefore, there was no basis upon which to confirm the validity of the certificate.

- iii) Provisional sum amounting to Kshs.7,100,000 was made in the Bills of Quantities to allow fitting and fixtures, NEMA impact assessment, construction of bridge and ramp across the existing road. However, utilization of the same was not supported with detailed schedules of payment and other supporting documents or certificate from the merchants making justification for the payment and there was no evidence documented to confirm that the utilization of provisional sum was requested and approved by tender evaluation committee as required by Section 139(2)(e) of Public Procurement and Asset Disposal Act, 2015.
- iv) Physical inspection revealed that though fitting of plumbing and drainage works was done they were not functioning, electrical works done but not connected to main power line, external and internal painting and decoration works done but sub standard, floor finishes exposed tiles not done, fixing of doors done but not clearly furnished, terrazzo finish for staircase and ramp done but not clearly polished. Ramp was not installed with polycarbonate sheets, curtain rails works had not been done, and air conditioning not installed. It was not clear how payment certificates were issued despite outstanding works. This was an indication of poor workmanship thus casting doubt on the quality of works done.
- v) Hospital equipment amounting to Kshs.17,448,400 was not delivered as factored in the Bills of Quantities, it was not clear how the contractor was paid 91% of total amount without delivering the equipment.
- vi) No environmental impact assessment study was initiated or undertaken before commencement of the project on the waste management as required by Section 58 of the Environmental Management and Coordination Act, 1999 (amended 2015) and Regulations 10 of the Environmental (impact assessment and audit) Regulations, 2003.

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

208. Non-Preparation and Submission Financial Statements

The County Executive established Isiolo Municipality Board in 2019, Isiolo County Youth, Women and Persons with Disabilities Enterprise Development Fund in 2019 and Garbatulla Sub County Hospital in 2021. However, the entities did not prepare financial statements for audit since inception. This was contrary to Section 47(1) of the Public Audit Act, 2015, which provides the financial statements required under the constitution, the Public Finance Management Act, 2012 and any other legislation shall be submitted to the Auditor-General within three months after the end of each fiscal year. Although Management stated that the entities were non-operational due to non-allocation of funds, the County Executive had not taken any steps to dissolve the entities procedurally in accordance with the relevant establishment Acts.

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

209. Anomalies in Award of Contract for Construction of Isiolo Fire station

Annex II to the financial statements reflects an amount of Kshs.1,242,393,771 in respect of the pending bills as at 30 June, 2024. Included in the amount is Kshs.4,950,000 for construction of Isiolo Fire station through the Municipality of Isiolo.

Review of contract records provided revealed that the contractor entered into contract agreement with the County on 17 October, 2023 before the lapse of 14 days after the notification of award was done contrary to Section 135 (3) of Public Procurement and Asset Disposal Act, 2015 which provides contracts shall not be entered before fourteen (14) days have elapsed following giving of notification.

In addition, there were no engineers estimate from the department of public works which could have been the basis of conducting technical and financial evaluation and at the time of audit, plumbing work to the washroom amounting to Kshs.300,000 had not been done.

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

210. Irregular Allowances for Land Adjudication Process

Note 8 to the financial statements reflects an amount of Kshs.702,259,516 in respect of acquisition of assets, which includes Kshs.24,119,480 in respect of research studies, project preparation, design and supervision. Included in the amount is Kshs.3,000,000 advanced to a member of staff for facilitation of land adjudication process at Garbatulla. However, officers were paid allowances amounting to Kshs.2,877,200 for eight (8) and ten (10) days without clear roles and there were no daily signed attendance registers, program of activities provided to prove their work for which they were paid.

In the circumstances, the accuracy of the expenditure amounting to Kshs.3,000,000 on acquisition of assets could not be confirmed.

211. Project Implementation Status

The statement of comparison and actual amounts development reflects an amount of Kshs.1,727,219,971 on total development budget which ought to have been spent on project implementation during the year. The project implementation status report as at 30 June, 2024 indicated that the County Executive budgeted for one hundred and ninety-one (191) projects worth Kshs.1,727,219,971 to be undertaken during the year under review. However, one hundred and seventeen (117) projects worth Kshs.459,222,670 were completed, twenty-five (25) projects worth Kshs.1,069,672,681 were on-going and forty-nine (49) projects worth Kshs.238,324,621 had not been started.

In the circumstances, the effectiveness in use of public resources could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

212. Failure to Adhere to Guidelines on Migration to New Accounting Framework

Evaluation of the County Executive on its preparedness to migrate to the International Public Sector Accounting Standards (Accrual Basis) revealed that the County

Executive had not appointed a project co-ordination committee made up of officers from relevant departments and responsible to the Accounting Officer through a project manager. Although the County Executive stated that it had appointed a committee to identify its assets and liabilities, the Committee was yet to compile the listing for use in the migration process.

In the circumstances, the County Executive may be late in preparing to migrate to IPSAS (Accrual Basis) of accounting.

213. Improper Management and Control of Motor Vehicles

Annex III to the financial statements reflects an amount of Kshs.18,360,053,851 in respect of historical cost of assets. Included in the balance is Kshs.368,752,524 in respect of motor vehicles and other transport equipment which comprise of one hundred and two (102) motor vehicles. However, the following anomalies were noted:

i) Motor Vehicles Identification Details

The County Executive assets register did not include unique identification details for the motor vehicles such as the engine numbers, chassis numbers, color, model and individual fair values of the vehicles.

ii) Government Vehicle Registered in the Name of Private Parties

One of the motor vehicle included in the register was jointly owned by a private company and an individual.

iii) Unregistered Ambulances

Two (2) Toyota Land Cruiser Ambulances procured in 2010 and allocated to the Department of Health were not registered in the name of the County Executive.

iv) Variances in Motor Vehicle Records

The Transport Department had in its records a list of one hundred and two (102) vehicles. However, the departmental registers had a total of one hundred and forty-three (143) vehicles resulting into an unexplained variance of forty-one (41) vehicles.

v) Unserviceable Vehicles

The County Executive held fifteen (15) vehicles which were either grounded or unserviceable and Management did not provide measures or efforts put in place for ensuring that the un-serviceable and grounded vehicles were disposed off to prevent further loss. In addition, the County Executive did not prepare an annual assets disposal plan for motor vehicles as provided under Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020.

vi) Motor Vehicles in Private Garages

Sixteen (16) County Executive motor vehicles which were serviceable had been neglected in various private garages despite a provision in the county budget of Kshs.22,460,391 in respect of routine maintenance of vehicles and other transport equipment. This may expose the vehicles to risk of theft, losses,

uncontrolled wear and tear and unauthorised use. In addition, parking charges may accrue leading to losses to the County Executive.

vii) Failure to Maintain and Produce Motor Vehicle Ownership Documents

Motor Vehicle registration records for sixty-three (63) County Executive vehicles were not provided for audit.

In the circumstances, effectiveness of internal controls on Management of motor vehicles could not be confirmed.

214. Understaffing in Internal Audit Unit

Review of the staff establishment revealed that the County Executive internal audit function consisted of three (3) officers that comprised the Director and two Principal Auditors. This was below the staffing requirement outlined under Section 2.1.2 of the County Government Internal Audit Manual of October, 2021.

In the circumstances, the effectiveness of the internal audit unit in execution of its mandate could not be confirmed.

215. Inaccuracies in the Assets Register

Annex III to the financial statements reflects a balance of Kshs.18,360,053,851 in respect of historical cost of non-current assets as at 30 June, 2024. However, the County Executive, did not have policies and procedures on assets management and control to facilitate efficient utilization of the County assets. Further, the following anomalies were noted:

215.1 Lack of Land Ownership Documents

Included in the non-current assets balance of Kshs.18,360,053,851 is Kshs.14,624,181,715 in respect of land. However, ownership documents for land were not provided for audit. Further review of the assets' register revealed that six (6) parcels of land were not put to any use exposing them to risk of encroachment. Further, twenty-eight (28) parcels of land in the asset register were not surveyed. In addition, sixty-nine (69) parcels of land were not valued.

215.2 Undisclosed Values for Office Equipment, Furniture, and Fittings

Included in the non-current assets balance of Kshs.18,360,053,851 is Kshs.282,894,678 in respect of office equipment, furniture, and fittings. However, the asset register did not indicate the values of each item of office equipment, furniture and fittings. The assets included in the register were not tagged for ease of identification and monitoring. Further, one hundred and sixty-seven (167) office equipment and furniture were indicated as worn out, unserviceable or not functional with no disposal measures initiated to prevent further loss. In addition, the furniture belonging to the County departments of Finance and Agriculture were not included in the assets register.

215.3 Undisclosed Details for ICT Equipment

Included in the historical cost of non-current assets is an amount of Kshs.36,335,959 in respect of ICT equipment. However, the County asset register did not include details of the asset description, serial number, tag number, make, model, and the year of purchase of the equipment. Physical inspection of a sample of ICT equipment revealed that although some of the equipment had tag numbers indicated on them the same tag numbers had not been included in the asset register. Further, the fair values of the ICT equipment was not indicated in the assets register.

215.4 Failure to Dispose Unserviceable Machinery and Equipment

The asset register indicated the condition of four (4) equipment as faulty, decommissioned, unserviceable or not functional. However, Management did not demonstrate measures put in place to dispose the assets to prevent further loss. Further, the asset inventory lacked important information including registration/serial number, tag details, make/model, dates of installation and fair values of the assets.

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

COUNTY EXECUTIVE OF MERU – NO.12

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

216. Unreconciled Transfers from the County Government

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects transfers to other Government entities totalling Kshs.559,277,125 which includes transfers to Meru County Revenue Board amount of Kshs.333,859,945. However, the statement of financial performance and as disclosed in Note 1 to the financial statements of Meru County Revenue Board reflects transfers from the County Government totalling Kshs.354,685,092 resulting in an unreconciled and unexplained variance of Kshs.20,825,147.

In the circumstances, the accuracy and completeness of the transfers to Meru County Revenue Board amount of Kshs.333,859,945 could not be confirmed.

217. Unsupported Assets

Annex 6 to the financial statements reflects total cumulative summary of non-current assets balance of Kshs.11,784,945,465. Included in the balance of Kshs.11,784,945,465 is a balance of Kshs.42,337,783 in respect to land. However, Management did not provide a list of all parcels of land owned by the County, their specific locations, size and value. Although Management explained that it had already made efforts to acquire ownership documents, the verification and validation exercise for the assets owned by the County Executive had not been undertaken. Further, title deeds for land were not provided for audit.

In the circumstances, the accuracy and ownership of non-current assets balance of Kshs.11,784,945,465 could not be confirmed.

218. Failure to Reconcile Kenya Power Debt

Note 1 under other important disclosures reflects pending accounts payable totalling Kshs.1,329,144,337 which includes supply of services of Kshs.498,707,991 which further includes an amount of Kshs.20,529,158 owed to Kenya Power and Lighting Company. However, Kenya Power and Lighting Company records reflected an amount of Kshs.35,775,596 resulting in an unreconciled variance of an amount of Kshs.15,246,438.

In the circumstances, the accuracy and completeness of the accounts payable balance of Kshs.20,529,158 could not be confirmed.

219. Unsupported Finance Costs

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects finance costs of Kshs.41,158,510 in respect of domestic borrowing. However, the ledger provided included a journal entry correcting an IFMIS

error of Kshs.1,700,000. The journal neither directly related to the finance costs reported, nor sufficiently explained how the total of Kshs.1,700,000 was derived.

In the circumstances, the accuracy of finance costs of Kshs.1,700,000 could not be confirmed.

220. Leasing of Medical Equipment Amount

Review of other important disclosures under Note 14(4) to the financial statements revealed leasing of medical equipment amount of Kshs.124,723,404 and Kshs.110,638,298 for the current and comparative year respectively deducted at source. However, no records were provide for audit indicating how the amount deducted at source was treated in the books of the County Executive, conditional grant amount, the amount paid to date, the evidence of deductions at source and service provider agreement.

In the circumstances, it was not possible to confirm the accuracy and completeness of the equipment leased amount of Kshs.124,723,404.

Emphasis of Matter

221. 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.10,813,575,576 and Kshs.9,276,775,770 respectively resulting to an under-funding of Kshs.1,536,799,806 or 14% of the budget. Further, analysis of payment details revealed that the County Executive received an amount of Kshs.850,090,881 after 25 June, 2024 from the Exchequer.

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

222. Contingent Liability

Other Important Disclosures under Note 14(5) reflects contingent liabilities totalling Kshs.756,757,420. However, Management did not provide a complete schedule of the contingent liabilities reflecting the estimated amounts, taxed amounts, fee notes paid, status of the cases, and unpaid balance concerning the litigations affecting the County Executive.

My opinion is not modified in respect of these matters.

Other Matter

223. Prior Year Audit Matters

Review of the progress on follow up on prior year auditor's recommendations reveal that, 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 which

remained unresolved. Management did not provide reasons for the failure to resolve the issues.

224. Long Outstanding Accounts Payable

Note 14(1) under other important disclosure reflects pending accounts payable totalling Kshs.1,329,144,337. Analysis of the schedule of accounts payable revealed that the current pending bills amount to Kshs.1,329,144,337, while the outstanding bills for the previous financial year totalled Kshs.1,044,715,617. This represents an increase of Kshs.284,428,720 or 27% increase in accounts payables from the financial year 2022/2023.

Management did not support the payables by a report from the task force appointed by the County Executive to review the bills. Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year to which they have to be charged.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

225. Failure to Provide Project Status

Note 1 under other important disclosures and Annex 2 to the financial statements reflects pending accounts payable totalling Kshs.1,329,144,337. However, Management did not provide the project status for the projects undertaken indicating their status of completion, contract price and payment details.

In the circumstances, it was not possible to confirm the value for money of the total number of projects undertaken by the County Executive and their status.

226. Irregular Procurement Process

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services expenditure of Kshs.1,647,803,703 which includes procurement of Information and Communication Technology (ICT) related services totalling Kshs.66,625,225. The latter amount includes an expenditure of Kshs.4,890,500 which had the following anomalies:

226.1 County Headquarter Network Restructuring – Incomplete Inspection and Acceptance Committee

An amount of Kshs.2,390,000 in respect to procurement of New County Headquarter Network restructuring was paid by the County Executive. However, documents provided indicated that the inspection and acceptance committee comprised of two members of the staff contrary to Regulation 35(2) of Public Procurement and Asset Disposal Regulations, 2020 which states that when constituting the inspection and acceptance committee the accounting officer shall ensure that the following persons are included—(a) the user department; (b) the technical department; (c) the head of the procurement function; and (d) any other person as may be deemed fit.

226.2 Unjustified Purchase of Fiber Cabling

An amount of Kshs.2,500,500 was paid to an investments company for purchase of overhead fiber cabling from ICT Data Centre to new County headquarters, Municipality offices, Revenue Board offices and New Lands Low-Cost office block. However, no explanation was provided to justify the need for installation of the overhead point to point fiber connection since these buildings already had internet connected to the offices as observed in the prior year's expenditure.

In the circumstances, it was not possible to confirm value for money spent in network restructuring at the County headquarters.

227. Stalled Projects

The statement of receipts and payments reflects acquisition of projects totalling Kshs.1,272,611,708 which includes an amount of Kshs.36,886,105 in respect to two (2) projects. Physical inspection conducted in September, 2024 revealed that the two (2) projects had not been done satisfactorily and had stalled.

In the circumstances, value for money of funds spent in the Projects could not be confirmed.

228. Compensation of Employees

The statements of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.4,611,166,325 in respect to compensation of employees. Review of compensation of employees' records revealed the following unsatisfactory matters:

228.1 Non-compliance with the Law on Fiscal Responsibility – Wage Bill

During the year ended 30 June, 2024, County Executive incurred an expenditure on salaries and wages amounting to Kshs.4,611,166,325 which translates to 50% of the total receipts of Kshs.9,244,990,884. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that the County Government's expenditure on wages and benefits for its public officers, shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

228.2 Non-Compliance with County Governments Act, 2012

During the year, the County Public Service Board recruited two hundred and thirty-one (231) members of staff. However, 86% of the staff belonged to one ethnic community. Section 65(1)(e) County Governments Act, 2012 which provides that the recruitment shall not have more than one third of its staff from the same ethnic community.

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

228.3 Non-Adherence to One Third Basic Salary Requirement

Review of the monthly payroll records revealed that one thousand, seven hundred and seven (1,707) employees' received net salary which was below one third of their basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

229. Delayed Implementation of Second Informal Settlements Improvements Project Phase 2

During the 2020/2021 financial year, the County Executive and the National Government represented by the Ministry of Transport State Department of Housing and Urban Development agreed on the implementation of second informal settlements improvements project. As at close of the 2023/2024 financial year, the County Executive had received a total of Kshs.87,546,301 from the National Government for the Project. However, as at the close of the financial year 2023-2024, a balance of Kshs.72,228,688 was in the bank account. No satisfactory explanation was provided for failure to execute the Project.

In the circumstances, delayed implementation of the Project negatively affected service delivery to the public and value for money set aside for the Project could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

230. Voided Transactions

The statement of receipts and payments reflects total payments of Kshs.9,085,410,908. However, review of Integrated Financial Management Information System (IFMIS) records revealed that one hundred and forty-five (145) transactions with a value of Kshs.415,385,169 were processed and voided or canceled.

These transactions were not supported by requests to void and documentary evidence to confirm that the Controller of Budget was informed of the voiding of the payments to make necessary adjustments.

In the circumstances, controls in place for authorization and voiding of transactions could not be confirmed.

231. Failure to Tag Fixed and Movable Assets

Regulation 136 of the Public Finance Management (County Governments) Regulations, 2015 requires County Governments to maintain an updated asset

register that records all fixed and movable assets. This includes tagging assets and keeping detailed records such as the cost of acquisition, asset location, and condition. Physical inspection of sampled office desks, chairs and desktop computers revealed that the assets were not tagged.

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

232. Long Outstanding Retentions and Deposits Refund

Review of the ageing analysis of the deposit register provided for audit indicated that the County Executive was holding retention monies totalling Kshs.15,367,279.90 for various contractors for over one year. No explanation was provided for the failure to release the retention monies after the expiry of the defect's liability period.

In the circumstances, it was not possible to confirm the effectiveness of internal controls on management of retentions and deposits.

233. Lack of an Approved Staff Establishment

The County Executive did not have an approved staff establishment contrary to Section B 5(2) of the County Public Service Human Resource Manual, 2013 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. Further, Section B 6(3) states that in the recruitment process, due consideration will be given to appropriate organizational structure in each department, optimal staffing levels, schemes of service and career progression guidelines.

In the circumstances, it was not possible to establish if the County Executive operated at optimum staffing levels.

COUNTY EXECUTIVE OF THARAKA-NITHI – NO.13

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

234. Misclassification of Expenditure

The statement of receipts and payments reflects compensation of employee's amount of Kshs.2,354,655,972 which includes basic salaries of permanent employees amount of Kshs.1,618,127,909 as disclosed in Note 4 to the financial statements. However, the amount includes payments totalling Kshs.66,039,293 made on account of casual wages for temporary employees posted to various departments in the County Executive thereby overstating basic salaries for permanent employees by an amount of Kshs.66,039,293 and understating basic salaries for temporary employees by the same amount thus distorting the balances reflected in the financial statements.

In the circumstances, the accuracy and completeness of basic salaries for permanent employees amount of Kshs.1,618,127,909 could not be confirmed.

235. Un-Accounted for Contractors Retention Money

As previously reported, the statement of assets and liabilities reflects account payables balance of Kshs.81,154,193 which includes retentions from contractors' balance of Kshs.77,541,652 as disclosed in Note 12 to the financial statements. However, the Tharaka-Nithi County Deposit Bank Account had a balance of Kshs.806,975 resulting to an unexplained and unreconciled variance of Kshs.76,734,652.

In the circumstances, the accuracy and completeness of the account payables balance of Kshs.81,154,193 could not be confirmed.

236. Variance in Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.719,632,632 as disclosed in Note 8 to the financial statements. However, Part VI of Note 16 to the financial statements – summary of non – current asset register discloses assets historical cost balance of Kshs.5,457,360,368 which includes assets with a balance of Kshs.225,005,432 acquired during the year. Further, the assets historical cost balance of Kshs.5,457,360,368 was not supported by non-current asset registers for both assets acquired by the County Executive and those inherited from Defunct Local Authorities.

In the circumstances, the accuracy and completeness of acquisition of assets amount of Kshs.719,632,632 and assets historical cost balance of Kshs.5,457,360,368 could not be confirmed.

237. Variance in Pending Bills

Note 16.1 to the financial statements on other important disclosures reflects pending bills amounting to Kshs.842,939,684 out of which a balance of Kshs.252,377,400

relate to the period between 2013/2014 to 2022/2023 financial years. However, the pending bills totalling Kshs.842,939,684 includes a balance of Kshs.2,123,644 due to LAPFUND while the financial statements for LAPFUND reflected an outstanding amount of Kshs.2,128,327 leading to a variance of Kshs.4,683 which was not explained or reconciled.

Further, Management did not explain why the bills were not settled during the year when they occurred.

In the circumstances, the accuracy and completeness of the pending bill balance of Kshs.2,123,644 could not be confirmed.

Emphasis of Matter

238. 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.5,954,279,762 and Kshs.4,688,222,963 respectively, resulting in budget under-funding of Kshs.1,266,056,799 or 21% of the budget. However, the County Executive spent an amount of Kshs.4,596,640,671 against actual receipts of Kshs.4,688,222,963 resulting in an underutilization of Kshs.91,582,292 or 2% of the actual receipts.

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

My opinion is not modified in respect of this matter.

Other Matter

239. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised. However, no report or recommendations from Management and oversight bodies were submitted for verification. The issues remain unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

240. Failure to Submit Financial Statements

The County Executive did not prepare and submit to the Auditor-General, financial statements for twenty-seven (27) Youth Polytechnics. This was contrary to Section 47(1) of the Public Audit Act, 2015 which states that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

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

241. Delayed Upgrading of Kambandi-Cheera-Ruguti Road

The statement of receipts and payments reflects acquisition of assets amount of Kshs.719,632,632 which includes the construction of roads amount of Kshs.337,137,936 as disclosed in Note 8 to the financial statements. This further includes an amount of Kshs.99,547,516 paid to a contractor for upgrading of Kambandi-Cheera-Ruguti road to bitumen standards that was awarded on 21 November, 2018 for a contract period of three (3) years and a contract completion period of December, 2022 but extended to 24 October, 2024 as per the approval dated 24 April, 2023. Records showed total payments to date amounted to Kshs.262,698,327 representing a 74% completion rate.

Further, a physical inspection done in September, 2024 revealed that the contractor was not on site. No correspondences were provided on measures being taken to complete the project.

In the circumstances, value for money for the expenditure totalling Kshs.262,698,327 could not be confirmed.

242. Delayed Upgrading of Karandini-Kithioroni Road

The statement of receipts and payments reflects acquisition of assets amount of Kshs.719,632,632 which includes construction of roads amount of Kshs.337,137,936 as disclosed in Note 8 to the financial statements. This further includes an amount of Kshs.90,383,198 paid to a contractor for a road works for upgrading of Karandini-Kithioroni road to bitumen standards awarded on 10 December, 2020 for period of three (3) years and a contract completion period of 10 December, 2023 but extended to 4 June, 2025 as per the approval dated 4 December, 2023. Records showed payments to date totalling Kshs.313,761,015 representing 70% completion of the Project.

Further, physical inspection done on 18 September, 2024 revealed that contractor was not on site. No correspondences were provided on measures being taken to complete the projects.

In the circumstances, value for money of the expenditure of Kshs.313,761,015 could not be confirmed.

243. Delayed Upgrading of Tunyai - Ntaara Road

The tender to upgrade Tunyai-Ntaara road to bitumen standards was awarded in November 2018 to a contractor at a contract sum of Kshs.689,341,600. The contract period was four (4) years from 25 November, 2018 to November 2022 and was to cover 20 Kilometres (Km). However, the Project was yet to be completed as at the time of audit inspection in September, 2024 with the Project having stalled after only upgrading 4Km of the road. Further, the contractor had abandoned the site having been paid a total of Kshs.117,999,162.

In the circumstances, value for money of the expenditure of Kshs.117,999,162 could not be confirmed.

244. Delayed Construction of Ndagani Market

The statement of receipts and payments reflects acquisition of assets amount of Kshs.719,632,632 which includes infrastructure and civil works amount of Kshs.148,965,877 as disclosed in Note 8 to the financial statements. This expenditure includes an amount of Kshs.14,535,270 paid to a contractor towards construction of Ndagani Market. Review of records showed that the contract for construction of Ndagani Market was awarded to a contractor and signed on 6 June, 2023 at a cost of Kshs.42,942,750 for a contract period of ten (10) months. The order to commence works was given immediately. Audit inspection carried out in September, 2024 on the Project revealed that the contractor was not on site, the ramp for scaling the heights from the ground floor to the first floor was exposed and could be vandalized and the Project had stalled.

In the circumstances, the public did not realized value for money in the expenditure of Kshs.14,535,270.

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

Review of the June, 2024 payroll revealed that fifty (50) employees received net salaries which were less than a third (1/3) of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that, 'without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of sub-section (1), may be made by an employer from the wages of his employee at any one time, shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry'.

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

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

Review of June payroll revealed that the County Executive had two thousand six hundred and sixty -six (2,666) employees. However, one thousand eight hundred and twenty-nine (1,829) members of staff or 69% were from the dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which 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.

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

247. Non-Compliance with the Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects expenditure totalling Kshs.2,354,655,972 in respect of compensation of employees representing 50% of the total revenue received of Kshs.4,686,978,781 during the year under review. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County

Governments) Regulations, 2015 which requires the County Executive to set a wage limit which should not exceed 35% of the total revenue received.

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

248. Non-Compliance with Fiscal Responsibility Principle on Development Expenditure

The statement of receipts and payments reflects total expenditure of Kshs.4,596,640,671 comprising recurrent and development expenditures of Kshs.3,437,988,092 and Kshs.1,158,652,579 respectively. The development expenditure accounted for 25% of the total expenditure which was below the 30% threshold stipulated by Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015.

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

249. Irregular Payment to Council of Governors

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.920,678,167 as disclosed in Note 5 to the financial statements which includes expenditure on other operating expenses amount of Kshs.92,160,333. Included in this amount is a payment of Kshs.5,000,000 paid to the Council of Governors. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

250. Voided Transactions

The statements of receipts and payments reflects total payments of Kshs.4,596,640,671. However, review of Integrated Financial Management Information System (IFMIS) records revealed that six hundred and fifteen (615) payment transactions totalling Kshs.293,323,824 were processed and voided or cancelled during the year ended 30 June, 2024. These transactions were not supported by requests to void and documentary evidence to confirm that the Controller of Budget was informed of the voiding of the payments so as to make necessary adjustments.

In the circumstances, the legality of the voided payments amounting to Kshs.293,323,824 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

251. Personal Emoluments Paid Outside the Payroll System

Review of the Payroll System revealed that the County Executive runs two (2) payrolls namely the Integrated Payroll and Personnel Database (IPPD) and excel spreadsheets. The IPPD reflected a total of two million, six hundred and sixty-six (2,666) employees while the manual payroll had one hundred and twelve (112) employees. As a result, one hundred and twelve (112) employees were paid a total of Kshs.16,746,137 through the manual payroll. The use of the manual payroll requires manual input of data and calculation of deductions which is prone to error and manipulation.

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

COUNTY EXECUTIVE OF EMBU – NO.14

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

252. Inaccuracies in the Financial Statements

252.1 Unreconciled Pending Payables

Other Important Disclosure and Note 17 to the financial statements reflects pending accounts payables and other pending payables balances of Kshs.1,755,700,997 and Kshs.451,352,574 respectively. The pending accounts payable balance of Kshs.1,755,700,997 includes supply of services amount of Kshs.409,472,260 out of which an amount of Kshs.67,910,596 is owed to Kenya Power. However, Kenya Power records reflected an amount of Kshs.50,973,758 resulting in an unreconciled and unexplained variance of Kshs.16,936,837.

252.2 Unexplained Variance in Pending Payables

Other Important disclosures and Note 17 to the financial statements reflects pending accounts payable balances totalling Kshs.1,755,700,997 which includes supply of services amount of Kshs.409,472,260 out of which an amount of Kshs.114,051,555 is in respect to Local Authorities Provident Fund (LAPFUND). However, The National Treasury records reflected that the County Executive owes an amount of Kshs.39,360,268 in respect to LAPFUND resulting in an unexplained and unreconciled variance of Kshs.74,691,287.

In the circumstances, the accuracy and completeness of accounts payables balance of Kshs.409,472,260 could not be confirmed.

253. Incomplete Asset Register

Annex 5 to the financial statements reflects total cumulative summary of non-current assets amount of Kshs.12,703,331,982 which excludes assets inherited from the defunct local authorities. Further, included in the balance of Kshs.12,703,331,982, is an amount of Kshs.3,814,395,773 in respect to land. However, the County Executive did not provide a list of all parcels of land owned by the County Executive, their specific locations, approximate size, value, and respective title deeds. Although the Management explained that they had already made efforts to acquire ownership documents, the verification and validation exercise for the assets owned by the devolved unit has not been undertaken. In addition, no title deeds in the name of the County Executive were provided for audit.

In the circumstances, the existence, valuation, ownership and location of parcels of land could not be confirmed.

254. Unsupported Leasing of Medical Equipment Amount

Review of other important disclosures under Note 5 to the financial Statements revealed leasing of medical equipment amount of Kshs.122,723,404 and

Kshs.110,628,298 for the current and comparative year respectively, deducted at source. However, no records were provided for audit indicating how the amount deducted at source was treated in the books of the County Executive, conditional grant amount paid to date, the evidence of the deductions at source and the service provider agreement.

In the circumstances, accuracy and existence of the equipment leased at a cost of Kshs.122,723,404 could not be confirmed.

255. Long Outstanding and Unsupported Accounts Payables

Other important disclosures 1 and 2 to the financial statements reflects pending bills balance of Kshs.1,755,700,997 and Kshs.451,675,008 in respect to pending accounts payables and other pending payables respectively totalling Kshs.2,207,376,005 that were not settled in the year under review but were carried forward to 2024/2025 financial year. Further, analysis of the schedule of pending bills records revealed that the current pending bills amount to Kshs.2,207,376,005, while the outstanding bills for the last financial year amounted to Kshs.1,926,990,499. This represents an increase of Kshs.280,385,506 or 13% increase in pending bills from the financial year 2022/2023.

In addition, analysis of pending bills revealed long outstanding payables totalling Kshs.62,940,557 from financial year 2015/2016. Management did not support the pending bills with a report from the task force appointed by the County Executive to review the bills. Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year to which they have to be charged.

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

Emphasis of Matter

256. 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 amounts of Kshs.7,298,577,468 and Kshs.6,022,913,829 respectively resulting to an under-funding amount of Kshs.1,275,663,640 or 17% of the budget. Similarly, the County Executive spent an amount of Kshs.6,020,517,257 against actual receipts of Kshs.6,022,913,829 resulting to an under-expenditure of Kshs.2,396,572 or 0.4% of the budget.

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

My opinion is not modified in respect of this matter.

Other Matter

257. Unresolved Prior Year Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

258. Failure to Prepare and Submit Financial Statements for Audit

258.1 Embu County Revenue Authority

Management did not prepare and submit the financial statements for Embu County Revenue Authority as required by Section 47(1) of the Public Audit Act, 2015 which states that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

258.2 Level 4 Hospitals

The Hospitals' Management did not prepare and submit for audit the annual report and financial statements for Runyenjes Sub-County, Mbere Sub-County, Kiritiri and Ishiara, level four (4) Hospitals despite them being in operation for the three years 2021/2022, 2022/2023 and 2023/2024 to the Office of Auditor-General as per statutory deadline.

This was contrary to Section 47(1) of the Public Audit Act, 2015 which states that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

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

259. Irregular Payments to Council of Governors

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects other grants and transfers totalling Kshs.807,605,033 which includes an amount of Kshs.3,000,000 paid to the Council of Governors. However, Management did not provide supporting documents including, legal framework, invoice and contract agreement that formed the basis for the payment. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in

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

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

260. Late Approval of the Embu County Government Appropriation Act, 2023

Review of the County Appropriation Act, 2023 revealed that the Act was approved and assented to on 16 August, 2023 and 21 August, 2023 respectively. However, approval from the Speaker of the County Assembly to the County Executive Committee Member granting authority to withdraw from the County Revenue Fund was not provided for audit, even though the County Revenue Fund bank statements reflected that debit transactions amounts of Kshs.819,438,640 and Kshs.538,826,546 were made on recurrent and development expenditure respectively as per the Central Bank of Kenya Bank Accounts between 01 July, 2023 and 20 August, 2023. This was contrary to Regulation 36(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that, where the County Appropriation Act is not assented to or is not likely to be assented to before the first working day of the financial year, the Speaker to the County Assembly, with approval of County Assembly, shall communicate to the County Executive Committee Member grant of authority to withdraw from the County Revenue Fund of monies of an amount not exceeding one-half of the amount included in the estimates in accordance with Section 134 of the Act.

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

261. Unbudgeted Transfers to the Embu Level 5 Hospital

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects transfers to other Government entities totalling Kshs.1,013,732,568 which includes transfers to Embu Level 5 Hospital amount of Kshs.789,155,691. However, review of the County Supplementary Appropriation Act, 2024 revealed that the County Assembly appropriated a final supplementary recurrent and development budget of Kshs.224,326,400 and Kshs.116,000,000 respectively totalling Kshs.340,326,400 for the Embu Level 5 Hospital resulting to an unbudgeted transfer of Kshs.448,829,291. This was contrary to Regulation 46(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that an accounting Officer shall inform his or her responsible County Executive Committee Member immediately of any circumstances that are likely to affect materially the budgetary results either through revenue and expenditure or other receipts and payments of the county government entity.

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

262. Stalled Project - Governor's Official Residence

The County Executive entered into a contract for construction of Governor's residence with a firm at a contract sum of Kshs.49,703,439 on 08 March, 2021. The contract period was to run for seventy-two (72) weeks with expected completion date of 8 September, 2022. The County Executive was required to allocate funds and prioritize construction of houses for the Governor and Deputy Governor on public land in accordance with the specifications therein, before the stated deadline. However, at the time of audit in September, 2024, the Governor's official residence was not

complete and the last certificate of work done revealed that the project was 55% complete. The project appeared to be stalled since the contractor was not on site. The building is deteriorating and the wood used had started to rot. Request for an engineer's opinion on status of the building was not provided for audit. Further, no evidence was provided for audit to confirm whether the contractor had sought for extension of contract period, or a default notice issued to the contractor by the County Executive.

This was contrary to SRC Circular Ref. No. SRC/TS/COG/6/61/48 VOL.II (64) of 20 May, 2019 which gave guidelines on housing benefits for Governors and Deputy Governors and the public may not have obtained value for money from the stalled project.

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

263. Compensation of Employees

The statements of receipts and payments reflects an amount of Kshs.2,434,981,502 in respect to compensation of employees as disclosed in Note 3 to the financial statements. Review of compensation of employees' records revealed the following unsatisfactory matters;

263.1 Non-Compliance with the Fiscal Responsibility Requirements – Wage Bill

During the year under review, County Executive incurred salaries and wages amount of Kshs.2,434,981,502 which translates to 41% of the total receipts of Kshs.6,022,913,829. However, there was no evidence to show that the County Executive Member with approval of the County Executive set a limit on the County Executive expenditure on wages and benefits for its public officers. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that the county government's expenditure on wages and benefits for its public officers, shall not exceed thirty-five (35) percent of the county government's total revenue.

263.2 Non - Adherence to One-Third Basic Salary Requirement

Review of the monthly payroll records revealed that one thousand three hundred and sixty-six (1,366) employees' salary deductions fell below the one-third (1/3) of the basic salary contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

263.3 Failure to Remit Payroll Deductions

Review of payroll data revealed that overdue outstanding remittances totalling Kshs.431,803,980, deducted from employee salaries aged more than two (2) years ago were not remitted to the respective entities. These include contributions to the Local Authorities Provident Fund (LAPFUND), the Local Authorities Pension Trust (LAPTRUST), Housing Levy, savings and loan repayment to different SACCOs and Banks, Union dues, HELB, statutory deductions, staff welfare associations, insurance policy deductions, and the County Pension Fund. This was contrary to Section

19(4)(5) of the Employment Act, 2007 which stipulates that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement court order or arbitration as the case may be.

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

During the year under review, County Executive had a total of five hundred and twenty-five (525) employees in job group L, M, N, R and S which is the representation of the senior management. However, review of employee records revealed that three hundred and fifty-two (352) or 60% of employees were from the dominant community in the County. This was contrary to Section 7(1)(2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

263.5 Irregularities in the Recruitment Processes

During the year under review, the County Public Service Board recruited nine hundred and eleven (911) employees in various positions. However, supporting documents such as list of all the applicants for these positions, short list of the applicants, interviewing minutes and summary of the score sheets for the interviewed candidates were not provided for audit. The only documents provided for audit were the newspaper advertisement, the final list of the successful candidates and minutes of the County Public Service Board resolutions on successful candidates for the various positions.

Further, review of recruitment records revealed that seven hundred and ninety-nine (799) or 88% of the newly recruited employees were from the one dominant community in the County. This was contrary to Section 65(1)(e) of the County Government Act, 2012 in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

In addition, only two hundred and ninety-seven (297) newly recruited employees could be traced both in the payroll and the list of successful candidates, six hundred and fourteen (614) recruits in the payroll could not be traced in the successful list of candidates. This was contrary to Section 68 of the County Governments Act, 2012 which states that subject to the relevant legislation, the County Public Service Board shall, for a specified period, maintain a record of all applications received in response to advertisements inviting applications and such record may be inspected by any person.

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

264. Outstanding Imprest

During the year under review the County Executive issued temporary imprest to staff for various activities across the County. However, as at the time of the audit in

September, 2024 outstanding imprest amount of Kshs.12,774,887 had not been surrendered. The outstanding imprest was issued between July, 2023 and 30 June, 2024. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that a holder of a temporary Imprest shall account or surrender the Imprest within seven (7) working days after returning to duty station.

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

265. Incomplete Renovation Works at Manyatta Market

The statement of receipts and payments reflects acquisition of assets amount of Kshs.832,009,365 as disclosed in Note 8 to the financial statements which includes an amount of Kshs.181,651,871 in respect to construction and civil works. During the year under review the County Executive entered into a contract dated 26 April, 2024 with a construction company at a contract sum of Kshs.1,999,004 through negotiation No. 1476320-2023/2024 for renovation works at Manyatta Market to be completed within three (3) months. Review of payment records and supporting documents provided for audit revealed that even though the contract period expired on 26 July, 2024 and the final certificate had been paid, physical inspection of the project in September, 2024 revealed that the project remained incomplete and had the following anomalies;

- i) The contractor failed to construct a raised steel tank platform, to supply and install a 1000 litres water tank and allow for water connection estimated at a total cost of Kshs.319,000.
- ii) The contractor supplied and fixed substandard doors instead of 50mm thick flush doors estimated to cost Kshs.54,500.
- iii) The ablution block walling was not built to a recommended standard height and the toilets had no ventilations to allow for free flow of air.
- iv) No evidence was provided for audit to show that the contractor requested for approval for variations and amendments to the design of the ablution block superstructure. However, the contractor implemented a concrete slab roof instead of a galvanized roof structure estimated to cost Kshs.112,220, contrary to Regulation 132 of the Public Procurement and Asset Disposal Regulations, 2020.

This was contrary to Section 149(1) of the Public Finance Management Act, 2012 which states that an accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is (a) lawful and authorized and (b) effective, efficient, economical and transparent. The value for money for on construction of the markets could not be confirmed and the public may have been denied benefits that could have accrued from the usage of the market.

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

266. Unutilized Milk Cooler Shed

The statement of receipts and payments reflects requisition of assets amount of Kshs.832,009,365 as disclosed in Note 8 to the financial statements which includes an amount of Kshs.181,651,871 in respect of construction and civil works out of which an amount of Kshs.1,495,650 was paid for construction and installation of a milk cooler shed through negotiation No. 1474829-2023-2024 at Mbui Njeru. However, even though the final certificate had been paid, physical inspection of the building carried out in September, 2024 revealed that the building was not in use. In addition, a project sign board was not fixed, thus ownership of the project could not be confirmed.

In the circumstances, value for money on the construction and installation of a milk cooler could not be confirmed.

267. Irregular Implementation of National Government Functions

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects acquisition of assets totalling Kshs.832,009,365 which includes Kshs.2,965,321 for various projects. Review of payment records and supporting documents provided for audit in respect to construction and civil works revealed that the County Executive incurred an expenditure amounting to Kshs.2,965,321 for three (3) partially complete projects implemented by the National Government, Ministry of Agriculture through Kenya Tea Development Agency and the Ministry of Education. Further, these shared services were not supported by partnership agreements and the County Executive did not have a county shared services platform aligned to national policies, standards and norms.

This was contrary to Section 118 of the County Governments Act, 2012 which states that a county government may enter into an agreement with the national government, another county or an agency of the national government, and each county shall have a county-shared services platform aligned to national policies, standards and norms.

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

268. Anomalies in Presentation of the Financial Statements

Review of the annual report and financial statements provided for audit revealed that the County Executive did not indicate the engagement with the County Assembly through its committees and the Senate including number of bills sponsored by the County Executive and any other matters presented for deliberations. Consequently, the financial statements have not been presented in accordance to the financial reporting templates issued by the Public Sector Accounting Standards Board (PSASB) and International Public Sector Accounting Standards (IPSAS).

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

269. Voided Transactions

Analysis of system payments revealed that seven hundred and sixteen (716) transactions totalling Kshs.324,525,939 were voided during the year under review. However, Management did not provide a reconciliation to confirm when the voided transactions were subsequently paid.

In the circumstances, controls in place to authorize and void transactions and later approve for payment could not be confirmed.

270. Non-Current Assets Register

270.1 Lack of Ownership Documents

Annex 5 to the financial statements reflects summary of non-current assets register balance of Kshs.12,703,331,982 in respect of fixed assets which includes land with a balance of Kshs.3,814,395,773. However, land ownership documents were not provided for audit.

270.2 Failure to Tag Fixed and Movable Assets

Physical inspection conducted in November of sampled office desks, chairs and desktops revealed that the assets did not have assets locations and tags on them therefore, it was not possible to confirm whether the assets belonged to the County Executive. This was contrary to Regulation 136 of the Public Finance Management (County Governments) Regulations, 2015 specifically mandates that County Governments maintain an updated asset register that records all fixed and movable assets.

270.3 Failure to Update Vehicle Register

During the year under review, Management failed to maintain and update vehicle register with details of chassis numbers, engine numbers, the dates the vehicles were put into use and the dates the vehicles were grounded. In addition, fleet records provided did not include motor vehicle chasis numbers and one hundred and six (106) motor vehicles and bikes lacked engine numbers.

Further, Management presented a list of two hundred eleven (211) movable assets for audit out of which one hundred and fifty-nine (159) motor vehicles and bikes were grounded and scattered in several yards and hospitals across the county. However, there were no records of the dates the assets were grounded and Management did not provide a disposal plan in respect to the assets. An unknown number of motorbikes belonging to the Department of Agriculture were grounded in a Sub-County office. However, there were no details including registration numbers and make of the grounded motorbikes. Further, three (3) motor vehicles were traced to the register but not physically confirmed.

In addition, one motor vehicle had been grounded at a garage for the past three (3) years due to outstanding arrears relating to repairs and maintenance of the vehicle.

Management had not settled the outstanding arrears for the motor vehicle to be put into use by the relevant department.

In the circumstances, ownership, existence, control and safe custody of the motor vehicles and motorbikes could not be confirmed.

COUNTY EXECUTIVE OF KITUI – NO.15

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

271. Inaccuracies in Cash and Cash Equivalents Balance

The statement of assets and liabilities and as disclosed in Note 13 A to the financial statements reflects cash and cash equivalents balance of Kshs.670,054,589 being balances held in various bank accounts. However, review of the bank reconciliation statements revealed that reconciling items which included unpresented cheques and receipts in cashbook not recorded in bank statement totalling Kshs.749,570,308 and Kshs.744,412,873 respectively were transactions for the period between 1 July, 2024 and 12 July, 2024 which were outside the financial year and cut off period.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.670,054,589 could not be confirmed.

272. Unconfirmed Revenue

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects miscellaneous receipts amounting to Kshs.3,111,155,760. However, review of revenue records revealed that receipts totalling Kshs.3,980,755 were recorded in the cashbook but did not reflect in the bank statements or the bank reconciliation statement as at 30 June, 2024. Further, the cashier analysis indicated un-banked revenue amounted to Kshs.3,794,256.

In addition, review of the revenue collection system records for land rates (LAIFOMS) revealed that Management did not collect outstanding property rates totalling Kshs.1,098,129,827 owed to the County.

In the circumstances, the accuracy and completeness of miscellaneous receipts amounting to Kshs.3,111,155,760 could not be confirmed.

273. Variances Between Financial Statements and Integrated Financial Management Information System Balances

Comparison between the financial statements and the Integrated Financial Management Information System (IFMIS) trial balance revealed the following variances:

Item	Financial Statements (Kshs)	IFMIS Balances (Kshs)	Variance (Kshs)
Transfers to Other Government Entities	1,047,235,986	1,403,526,140	356,290,154
Other Grants and Transfers	980,626,159	624,336,005	356,290,154
Surplus/Deficit for the Year	621,547,325	0	621,547,325

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

Emphasis of Matter

274. Pending Accounts Payables

Annexes 2 and 4 to the financial statements on analysis of pending accounts payables reflect a balance of Kshs.835,868,265 and Kshs.25,451,280 for pending accounts payables (Suppliers) and other pending payables respectively, all totalling Kshs.861,319,545 which were not settled as at 30 June, 2024. Although Management in their response indicated that they were unable to settle the bills during the year since June disbursement totalling Kshs.866,000,000 was not received from The National Treasury, no evidence was provided to confirm that the bills were settled as a first charge in the subsequent year.

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 the first charge.

My opinion is not modified in respect of this matter.

Other Matter

275. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. However, Management has not resolved all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management has indicated that they have been appearing in the Senate Committee on Public Accounts to respond and resolve issues raised by the audit report. The County appeared on 18 November, 2024 for all the outstanding previous reports issues and is working to resolve the issues as directed by the Senate. However, Management did not provide any measures put in place to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

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

Review of the Integrated Payroll and Personnel Database (IPPD) payroll revealed that one thousand nine hundred and nine (1,909) employees earned a net salary of less than a third (1/3) of the basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages. In addition, Section C.1(3) of the Public Service Commission (PSC) - Human Resource Policies and Procedures Manual for the Public Service (2016), stipulates that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries.

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

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

Review of the County Executive's master roll and other staff records indicated that out of 5,568 employees, 5,061 or approximately 91 % of the total number were from the dominant ethnic community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no one community should hold more than thirty percent of the positions. Although Management indicated that majority of the County employees were from the National Government and those inherited from the defunct Local Authority who were mainly from the dominant ethnic community, no effort has been taken to address the issue.

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

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

The statements of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.5,002,692,126 which represents 38% of the total receipts of Kshs.13,074,283,745. This was contrary to the provisions of 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 which, shall not exceed thirty-five (35) percent of the County government's total revenue. Although Management formed a taskforce which presented their findings and recommendations in February 2023, as at time of the audit in November 2024 the recommendations had not been implemented.

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

279. Stalled Projects

Review of project documents and physical site visits revealed that several projects detailed below had stalled while others were completed but not operational as follows;

279.1 Department of Health

As previously reported and further review of records and project verification exercise conducted for the department of health, projects with a contract sum of Kshs.404,585,303 had stalled when at various levels of completion and contractors had abandoned the sites. The project files indicated that the projects were started in 2017 and their contract period had expired. The following unsatisfactory matters were noted:

279.1.1 Storey-Maternity Ward at Kitui County Referral Hospital

Management awarded a contract for construction of a storey-maternity ward at Kitui County Referral Hospital in the year 2016/2017 at a contract sum of Kshs.242,787,625 with a contract period of 24 months and completion target date of 18 May, 2019. However, on 18 December, 2018 the contract was terminated and the amount paid to

the contractor by then totalled Kshs.51,964,035, but high court civil case No. 2 of 2019 ordered Management to pay the contractor an amount of Kshs.254,238,639.

Further, an out of court consent/agreement with the contractor for payment of a final sum of Kshs.53,017,765 was reached on 18 June, 2024 and the amount was paid on 24 June, 2024. However, project verification on 11 September, 2024 confirmed that the project had stalled.

279.1.2 Proposed Completion of X-ray Building at Kauwi Hospital

Management awarded a contract for the proposed completion of X-ray building at Kauwi Hospital on 2 February, 2024 at a contract sum of Kshs.2,208,686 for a contract period of 120 days. However, project verification carried out on 17 September, 2024 revealed that the X-ray building was complete but not in use. Management explained that it was awaiting installation of an X-ray machine. However, the Hospital has an X-ray machine delivered in the financial year 2017/2018 at a cost of Kshs.70,000,000, but the same is yet to be installed and commissioned.

279.1.3 Oxygen Plant Machine - Kitui County Referral Hospital

During the financial year 2016/2017, Management awarded a contract for supply, installation and commissioning of oxygen plant machine for Kitui Referral Hospital at a contract sum of Kshs.14,500,000. However, physical verification of the project carried out on 11 September, 2024 revealed that the plant was yet to be installed and commissioned. Further it was stored in an unsecured storage space outside, exposing it to risk of physical deterioration due to adverse weather conditions. Management attributed the delay in installation and commissioning of the oxygen plant to disputes between the County Executive and the supplier since the County Executive had not paid for the delivery. However, the dispute has taken too long to be resolved and the efforts being undertaken by the Management could not be confirmed.

In the circumstances, the public may not get value for money from the expenditure on the uncompleted projects.

280. Kabati Slaughterhouse

Management awarded a contract to construct Kabati slaughterhouse on 19 June, 2008 at a cost of Kshs.4,427,863. The contractor completed the Project but declined to hand over the slaughterhouse pending payment of an outstanding balance. The County Executive inherited the Project when the County was formed and the amount owed to the contractor has escalated due to penalty, legal fees and security charges charged by the contractor, with dispute resulting to a court case. The Court made a ruling for the County Executive to pay the principal sum of Kshs.6,197,755, which was paid on 26 September, 2023 awaiting further determination of the matter.

However, despite payment of the amount, the public is unable to access the slaughterhouse as the contractor has employed security to secure the facility. Management has not taken any measures to resolve the issue and ensure utilization of the facility by the public.

In the circumstances, the public may not get value for money from the expenditure on the project.

281. Unsatisfactory Implementation of Projects

Documents reviewed and audit inspections conducted revealed that three (3) projects were implemented, but not as per the scope/ the contract agreements. The following unsatisfactory observations were noted;

281.1 Construction of Livestock Office Block

Management awarded a contract for proposed completion works for livestock office at a contract sum of Kshs.2,497,959 on 19 April, 2024. Review of records revealed that an amount of Kshs.2,130,156 had been paid as at 30 June, 2024 and that the Project was listed as complete. However, audit inspection of the project conducted in September, 2024 revealed that the plastered corners and the office floor were cracked and the paint had started peeling off, while flush doors were made of plywood and not thick solid core flush doors faced both sides with mahogany veneer as stated in the Bill of Quantities.

Further, review of documents indicated that the contractor had rectified the defects, however, an inspection report was not provided to confirm the status.

281.2 Construction of a Snake Pit at Mutomo Reptile Park

Management awarded a contract to construct a snake pit at Mutomo Reptile Park at a contract sum of Kshs.3,217,312 on 16 December, 2023 which was paid on 30 May, 2024. However, the following defects were noted during project verification in September 2024;

- i) The lower concrete base to the snake pit had cracks and poor finishing.
- ii) The window opening access to the snake pit was not properly aligned, thus leaving a gap where the reptiles can escape through.
- iii) Sliding window grills were not smoothly done hence difficulty in opening and closing which may result in damage.

Further, Management engaged a contractor to construct 4-door pit latrine at the park at a contract sum of Kshs.860,359, and was paid on 6 June, 2024. Inspection of the project revealed that branding was not done and it also lacked a signage. In addition, the latrine had developed cracks on the floor, while painting works was poorly done.

281.3 Sumpwell and Civil Works at Tyaa River

Management awarded a contract for construction of Tyaa Sump-well and other Civil works at Tyaa river in Mwingi with scope of works being; intake works (construction of sump-well), solar pumping assembly, guardhouse and toilet, water transmission line (rising main) and masonry storage water tank at Mwingi Town with a contract sum of Kshs.15,957,431 as per contract agreement signed on 23 February, 2024. Review of contract documents revealed that the contractor was paid an amount of

Kshs.13,607,837 on 21 June, 2024. The certificate of practical completion and inspection and acceptance committee report dated 21 June, 2024 and 20 June, 2024 respectively indicated that civil works were complete.

However, the solar pumping station installations valued at Kshs.4,618,032 were not secured with a fence and are built at the river bed, while guardhouse is built uphill away from the installations, hence exposing the installations to risk of vandalization. In addition, two valve chambers had been vandalized and air valves stolen.

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

282. Non-Compliance with the Law on Statutory Dues

Review of payroll records revealed that the Management did not deduct and remit Pay As You Earn (PAYE) amounting to Kshs.6,673,380 to Kenya Revenue Authority (KRA) with some of the arrears dating back to the year 2021. The County risks incurring costs in form of penalty and interest on accrued amounts. This was contrary to Section 37(1) of the Income Tax Act that requires an employer who pays emoluments to an employee to deduct and account for tax thereon, to such extent and in such manner as may be prescribed.

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

283. Lack of County Attorney

Review of the County Executive structure revealed that the County Executive did not have a County Attorney since the establishment of the Office in 2021/2022. This was contrary to Section 4(1 and 2) of the County Attorney Act, 2020 that requires County Governments to establish an office of the County Attorney which will consist of County Attorney, County Solicitor and such other number of legal counsels.

Lack of properly constituted County Attorney's office may have impacted negatively on the County and prevented it from benefitting from the functions of the County Attorney on legal advice and representation, negotiating, drafting, vetting and interpreting documents and agreements and revision of county laws among others.

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

284. Late Submission of Climate Change Financial Statements

During the year under review, Management submitted the financial statements for climate change to the Auditor-General on 15 November, 2024 instead of the statutory deadline of 30 September, 2024. This was contrary to Section 29.(1) of Climate Change Act, 2016 which stipulates that the Council shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Council and shall cause the accounts of the Council to be audited within a period of three months after the end of each financial year.

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

285. Failure to Submit Financial Statements for Kitui Municipality

Review of records revealed that the County Government of Kitui established Kitui Municipality through a charter dated and approved on 29 June, 2018. However, the Municipality failed to submit financial statements for 2019/2020, 2020/2021, 2021/2022, 2022/2023 and 2023/2024 financial years for audit. This was contrary to provisions of Sections 46(1) and (2) of the Urban Areas and Cities (amendment) Act, 2019, which requires the board or town committee to cause to be kept all proper books and records of accounts of its income, expenditure, assets and liabilities and to submit the financial statements to the County Executive Committee member for transmission to the Auditor-General.

Further, it was noted that during the year under review, Kitui Municipality had an approved budget of Kshs.192,453,209 and incurred an expenditure totalling Kshs.151,981,621 which was reported under the County Government.

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

286. Irregular Funding of National Government Functions

Management spent an amount of Kshs.84,068,141 for the award of bursaries to student beneficiaries in secondary schools, universities, tertiary schools and special education institutions. Further, the County, through the Ministry of Culture, Gender, Youth, ICT, Sports and Social Services, under the programme, Development and Management of Sport Facilities allocated an amount of Kshs.44,600,000 for the Development of nine (9) play grounds in the County. Review of seven (7) sampled project files and physical inspection revealed that projects valued at Kshs.23,044,851 were implemented by the County Government for purposes of Chain link fencing, goals posts, ground levelling and construction of pit latrines in various existing primary and secondary schools. The projects however, fall under the National Government functions as per the fourth schedule of the Constitution of Kenya, 2010, which describes the functions of the National Government to include Universities, tertiary educational Institutions, other institutions of research and higher learning and primary, secondary and special education institutions.

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

287. Irregular Payments to Council of Governors

As previously reported, the statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.1,047,235,986 under transfers to other Government entities. Included in the expenditure is an amount of Kshs.3,220,000 irregularly paid to Council of Governors. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012, which states that the operational costs of the Council shall be funded from the allocation of the National Government.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

288. Internal Audit and Audit Committee

Review of the structure of County Executive revealed that the County appointed an Audit Committee on 4 April, 2024. This indicated that the County did not have an Audit Committee for the three quarters under review. Further, the Head of internal Audit reported functionally and administratively directly to the Accounting Officer. The Internal Audit Work Plans and Reports provided for audit review revealed that they were all in draft form as there was no Audit Committee to approve them for further action. Further, review of human resource records revealed that the Audit Committee was not properly constituted as appointment letters provided for audit review showed that two members (alternate) representing the Governor and County Treasury had not been appointed as at the time of audit in November, 2024. In addition, the Internal Audit Function has a staff establishment of twenty-three (23) and only ten (10) are in place and there are no internal auditors attached to the various departments. This is contrary to Regulation 167(1) and 168(a) of Public Finance Management (County Governments) Regulations, 2015 on establishment of an audit committee. Lack of the Audit Committee means the operational independence of the Internal audit unit is not guaranteed.

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

289. Weakness in Management of Assets

Annex 6 to the financial statements reflects a summary of non-current asset register balance of Kshs.27,117,024,014 for the financial year. However, review of records and physical verification of sampled assets revealed the following anomalies;

- i) Three (3) motor vehicles at the parking yard, which were new vehicles (lorries) earlier used by the Ministry of Livestock Development had been vandalized, and are currently grounded. Other vehicles inspected were explained to be in good serviceable condition but were lying idle (not in use) and exposed to risk of being vandalized.
- ii) Various assets had been indicated as grounded, while others had no ownership documents like logbooks. It was explained that such assets were inherited from the defunct Kitui Municipal Council.
- iii) Assets were not tagged for ease of tracking.
- iv) Lack of formal guidelines on asset management from the County Treasury.

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

COUNTY EXECUTIVE OF MACHAKOS– NO.16

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

290. Variances in the Financial Statements

The statement of receipts and payments reflects total receipts amount of Kshs.11,417,314,882 and as disclosed in Note 1 and Note 2 while the statement of comparison of budget and actual amounts (recurrent and development combined) reflects an amount of Kshs.13,022,775,225 net of opening bank balance amount of Kshs.256,165,339. The resulting variance of Kshs.1,605,460,343 was not explained.

In the circumstances, the accuracy and completeness of the receipts totalling Kshs.11,417,314,882 in the financial statements could not be confirmed.

291. Variances Between Financial Statements and IFMIS Payment Details

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,403,653,567 and as disclosed in Note 4 to the financial statements. Review of the itemised expenditure items revealed that the amounts were at variance with the Integrated Financial Management Information System (IFMIS) as follows;

Item	Financial Statements (Kshs)	IFMIS (Kshs)	Variance (Kshs)
Other Operating Expenses	285,743,496	71,456,788	214,286,708
Domestic Travel and Subsistence	460,056,783	101,489,573	358,567,210
Foreign Travel and Subsistence	82,755,658	29,975,116	52,780,541
Printing, Advertising and Information supplies	43,062,783	16,246,421	26,816,362
Hospitality Supplies and Service	184,293,577	24,529,588	159,763,989

No reconciliations for the differences were provided for audit as at the time of the audit in November, 2024.

In the circumstances, the accuracy and completeness of use of goods and services totalling Kshs.2,403,653,567 could not be confirmed.

292. Unexplained Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers amount of Kshs.1,297,110,941 and as disclosed in Note 7 to the financial statements which includes an amount of Kshs.195,350,986 for fertilizer subsidy programme. However, the amount was deducted at source and utilized in the fertilizer subsidy which was a programme run by the National Government and no actual funds were received in the County Revenue Fund account.

In the circumstances, the accuracy and completeness of other grants and transfers of Kshs.195,350,986 could not be confirmed.

293. Variances in Transfers to Other Government Units

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.702,941,313 and as disclosed in Note 6 to the financial statements which includes an amount of Kshs.421,241,713 for climate change. However, review of bank statements revealed that the actual amount received in the Climate Change Programme's bank account amounted to Kshs.298,237,417 resulting in an unexplained variance of Kshs.123,004,296. Management indicated that the financial statements have been amended to reflect the correct amount. However, no amendment was done to the financial statements.

In the circumstances, the accuracy and completeness of transfers to other Government units of Kshs.421,241,713 could not be confirmed.

294. Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,403,653,567 and as disclosed in Note 4 to the financial statements. Included in the expenditure is an amount of Kshs.117,301,735 whose payment vouchers were not provided for audit.

In the circumstances, the accuracy and completeness of use of goods and service amount of Kshs.117,301,735 could not be confirmed.

295. Unsupported Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,253,669,118 and as disclosed in Note 9 to financial statements. Included in the expenditure is an amount of Kshs.84,586,506 for purchase of certified seeds, breeding stock and live animals. However, payments amounting to Kshs.54,936,968 were not supported.

In the circumstances, the accuracy and completeness of the expenditure totalling Kshs.54,936,968 could not be confirmed.

296. Variances in Legal Expenses

Review of prior year financial statements revealed that pending bills for legal fees amount of Kshs.807,862,095 while the current financial statements reflects an opening balance of Kshs.828,387,093, resulting to an unreconciled variance amount of Kshs.20,524,998. In addition, an amount of Kshs.38,807,957 was paid to four (4) firms as part of the prior year pending bill and current year payables. However, the relevant case files were not provided for audit.

In the circumstances, the accuracy and completeness of legal fees totalling Kshs.828,387,093 could not be confirmed.

Emphasis of Matter

297. 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.15,808,454,221 and Kshs.13,278,940,564 respectively, resulting in under-funding of Kshs.2,529,513,657 or 16% of the budget. Similarly, the County Executive spent an amount of Kshs.11,631,124,769 against actual receipts amount of Kshs.13,278,940,564 resulting in an under-utilization of Kshs.1,647,815,795 or 12 % of the actual receipts.

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

298. Pending Bills

Annex 2- Analysis of pending accounts payables, Annex 3- Analysis of pending staff payables and Annex 4- Analysis of other pending payables, to the financial statements disclose pending bills of Kshs.4,516,781,861, Kshs.855,416,201 and Kshs.167,965,221 respectively, all totalling Kshs.5,540,163,283 as at 30 June, 2024. Although Management indicated that the bills were not settled due to non-release of exchequer allocation, no evidence was provided to confirm that the pending bills formed a first charge in the subsequent year. 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 the first charge.

My opinion is not modified in respect of these matters.

Other Matter

299. 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 in Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

300. Compensation of Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.5,959,269,959 as disclosed in Note 3 to the financial statements. Review of the compensation of employees' documents revealed the following anomalies:

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

Records provided for audit including the payroll revealed that during the year under review, the County Executive had a total of six thousand five hundred and thirty-five (6,535) employees out of whom five thousand five hundred and nine (5,509) or 84% were from the dominant community in the County. This was contrary to Section 7 (2) of the National Cohesion and Integration Act, 2008 which provides that not more than

thirty (30) percent of the positions in employment should not be filled by person from one ethnic community.

300.2 Non-Compliance with the Law on People Living with Disabilities

There were sixty-one (61) employees or approximately 1% of the employees who are persons living with disabilities contrary to Paragraph 2.2.2(i) of Public Service Commission Diversity Policy 2016 which states that every public service institution shall adopt measures aimed at facilitating the realization of the constitutional principles of ensuring an inclusive public service and that at least five percent (5%) of appointments in the public sector shall comprise of persons with disabilities.

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

The statement of receipts and payments reflects compensation of employees totalling Kshs.5,959,269,939 which represents approximately fifty-two (52%) of the total receipts of Kshs.11,417,314,882. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the limit on the County Governments expenditure on wages and benefits for its public officers not to exceed 35% of the County Government's total revenue.

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

During the year under review, twenty (20) employees earned a net salary of less than a third of their basic salary. Although Management explained that it was due to introduction of Housing Levy and new National Social Security Fund (NSSF) tax rates, this was contrary to Section C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that public officers shall not over-commit their salaries beyond two thirds (2 /3) of their basic salaries and Heads of Human Resource Units should ensure compliance. Further, this was contrary to Section 19(3) of the Employment Act, 2007 which states that all deductions made by an employer from the wages or salaries of his employees at any one time shall not exceed two thirds (2/3) of such wages or salaries.

300.5 Payment of Salaries Outside the Integrated Payroll and Personnel Database

Review of payroll payment revealed that an amount of Kshs.487,009,214 for salaries was paid outside the Integrated Payroll and Personnel Database (IPPD) system in the month of June 2024. In addition, review of the June 2024 monthly payroll data, revealed that two (2) employees shared the same bank account number. This was contrary to Section 1.5.1 of The National Treasury Financial Accounting Recording and Reporting Manual which provides that personnel emoluments of County Governments staff should be paid through IPPD.

300.6 Outstanding Medical Insurance Cover

During the year under review, an amount of Kshs.245,000,000 was paid for medical insurance cover. However, as at 30 June, 2024, the County Executive had an outstanding amount of Kshs.45,883,520 owing to the insurance company. This was in contravention of the Clause 2.6 of the contract agreement dated 19 October, 2023

which states that payment shall be made to the insurer immediately upon execution of the agreement. Although Management explained that there was no pending premium payments, the total premium had not been settled on execution of the agreement as required.

300.7 Unsupported Recruitment of Staff

During the year under review, Machakos County Public Service Board recruited and appointed five hundred and thirty (530) officers. However, the need assessment to fill the vacant positions, individual panelist score sheet for all interviewed candidates, the merit list and the Board minutes on the appointment of successful candidates were not provided for audit.

300.8 Lack of an Approved Staff Establishment

During the year under review, the County Executive had a total of six thousand five hundred and thirty-five (6,535) employees. However, the County Executive through the County Public Service Board did not have an approved staff establishment for the whole County Executive and for each Department detailing hierarchy of authority and responsibilities. Although Management explained that they are in the process of developing a staff establishment, no reason was provided as to why the staff establishment was not prioritised.

In the circumstances, Management was in breach of the law and effective measures could not be confirmed.

301. Lack of Utilities at Kaewa Dispensary

Contract for the proposed phased completion of Kaewa Dispensary (Upper Kaewa Ward) was awarded at a cost of Kshs.2,834,808. However, physical inspection revealed that, there was no electricity hence service providers could not perform immunizations and other medical services that required electricity. Further, there was no running water despite installation of a 10,000-litre water tank. In addition, there were security issues as the fluorescent tubes, wooden doors and sink pipes had been vandalized.

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

302. Anomalies in the Construction of Kathiani Livestock Market Sell Yard

The contract was awarded at a cost of Kshs.4,999,992 for the construction of Kathiani Livestock Market Sell Yard. However, contrary to Section 80 of the Public Procurement and Asset Disposal Act, 2015 on evaluation of tenders, review of the documents revealed the following issues;

- i) The winning bidder lacked requisite documents such as company profile, compliance documents and technical documents.
- ii) The opening minutes indicated that three (3) companies submitted their quotations of Kshs.5,168,287, Kshs.4,999,992 and Kshs.5,034,655. However, the request for quotation forms provided for audit revealed that only two (2) bidders submitted their quotations.

- iii) Preliminary mandatory requirement number six (6) required each page of the document to be paginated. However, none of the request for quotation forms was paginated including that of the winning bidder.
- iv) Evaluation report provided for audit was for the construction of Kithyoko Livestock Market sell yard instead of Kathiani Livestock Market sell yard.
- v) Management did not provide an acceptance letter, a due diligence report, an inspection and acceptance report and professional opinion for audit. In addition, the contract provided for audit was not signed.

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

303. Non-Functional Solar and Battery Backup Projects

The Department of Energy entered into two (2) projects for Kathiani Level 4 Hospital at a total amount of Kshs.13,569,996. The first project was for the supply and installation of battery backup amounting to Kshs.5,906,546 while the second project was for the supply and testing of solar plant totalling Kshs.7,663,449. However, physical inspection of the projects revealed that the solar plant and battery backup system were not functional. In addition, the bid price for the supply and installation of battery backup quoted in the GOK IFMIS evaluation matrix of Kshs.5,900,000 differed with the opening minutes amount of Kshs.6,100,000 resulting to unexplained variance of Kshs.200,000.

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

304. Anomalies in Proposed Construction of Kathalani- Kaviani Nzaikoni Roads

The contract for this project was awarded on 6 February, 2024 at a contract amount of Kshs.154,580,347 with a completion period of twenty-four (24) months from the date of signing of the contract. The budget for this project during the year under review was Kshs.50,000,000 and the bill of quantities included a sum of Kshs.1,000,000 for engineer's site visit and overtime allowance. One of the mandatory procurement criteria was to have all bid documents paginated, initialized and stamped. However, one of the bidders who had quoted an amount of Kshs.145,286,252 and had all bid documents paginated, initialized and stamped was evaluated as non-responsive during preliminary evaluation. However, the firm that was awarded the contract did not have all the pages paginated which was a mandatory criterion.

305. Anomalies in Upgrading of Kincar Airways-Zebra and Muungano Police Station Road Phase

Review of the contract documents revealed that the contract was signed on 6 February, 2024 at a contract sum of Kshs.84,017,245 with a completion period of six (6) months from the date of signing the contract. However, the following issues were noted:

- i) One of the mandatory requirements was for the form of tender to be completed, signed and stamped in the format provided and on company letterhead.

However, the form of tender for the winning firm was not in a company letterhead and was not signed, while bidder No. 3, had quoted an amount of Kshs.61,985,760 which was lower than the bidder who won yet the firm was disqualified on similar issues.

- ii) An amount of Kshs.29,237,955 was paid without a certificate of work done but was based on the summary of the statement of accounts submitted by the contractor.
- iii) Review of the progress report file revealed that in a letter dated 11 June, 2024, the contractor was using unapproved graveling materials which was against the instructions which required use of hand-packing rocks. The contractor had also disregarded hand packing instructions and utilized machines and no report was provided to confirm whether the contractor later conformed with the engineer's instructions.
- iv) The progress report dated February to March 2024 indicated that there was no site agent, general foreman, site surveyor, environmental officer and occupation health officer. These were key experts who were required as per the tender evaluation requirements. The project was being implemented without input from technical staff which may have compromised on the quality of work.
- v) The test certificates were to be given to the engineer at the start of the project. However, this was not done until 11 July, 2024, when the contract was coming to an end. The quality of materials used in the project was not verified during the contract implementation.
- vi) Physical inspection of the road revealed that the road had developed potholes which required urgent repairs casting doubt on the quality of work done by the contractor.

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

306. Irregular Contract for Routine Maintenance of Kathaianioni- Kwa Kavatha-Muli Kaese Road

Review of contract documents revealed that the contract was awarded on 19 March, 2024 at a contract sum of Kshs.4,896,464 with a contract duration of three (3) months. However, the firm did not attach beneficial ownership disclosure form which was a mandatory requirement. In addition, the firm did not provide a three (3) months bank statements within the last two years and key personnel certificate with two (2) years' experience as was required when bidding.

In the circumstances, regularity of contract awarded could not be confirmed.

307. Unsupported Payments for Consultancy Services for Development of Spatial Plan 2023/2024

The contract for the development of special plan 2023/24 was signed on 2 February, 2024 at a contract price of Kshs.207,711,166. However, the work plan

prepared by the department indicated an amount of Kshs.209,263,840 as the budget which included the cost of various stakeholders including technical working group, project team and CECM. However, it was not possible to determine how the amount quoted by the consultant was arrived at and whether the consultant was to be paid for work done by other stakeholders. In addition, an amount of Kshs.41,459,880 was paid to the service provider without deducting VAT and no explanation was provided on the basis for determining the amount to be paid.

In the circumstances, value for money on consultancy services could not be confirmed.

308. Un-Approved Payment for Consultancy Services for Development of Land Use Plan for Machakos Municipality

Review of procurement documents revealed that, a contract was signed on 4 January, 2024 at a contract price of Kshs.3,938,200 for a contract duration of seven (7) weeks. The payment schedule indicated that 60% was to be paid on submission of draft one and the balance of 40% on submission and approval of final draft by the Board. However, the full amount of Kshs.3,938,200 was paid before the draft was approved by the Board.

In the circumstances, the regularity and value for money on an amount of Kshs.3,938,200 could not be confirmed.

309. Stalled Projects

Review of various projects commenced in the County Executive revealed that fifty-four (54 projects) awarded at a contract price of Kshs.1,132,065,268 had stalled at various stages of completion. This was after the County Executive had incurred a total cost of Kshs.314,262,161 which was paid to various contractors.

In the circumstances, value for money on expenditure incurred amount of Kshs.314,262,161 could not be confirmed.

310. Full Payments for Incomplete Integrated Health Management System

Review of pending bills revealed a prior year pending bill of Kshs.44,885,921. This was for the tendered sum for phase one (1) of a project that was to be executed in three phases. However, confirmation reports from various level three (3) and two (2) hospitals covered under phase two (2) indicated that some service points were not covered, yet the full contract price of Kshs.78,530,148 was invoiced and paid for. Further, it was not clear whether the County Executive acquired the full ownership rights of the software including the source code.

In the circumstances, ownership rights of the software and value for money on the health management system could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

311. Lack of an Audit Committee

Review of audit reports revealed that the County Executive did not have a functional Audit Committee as required by Regulation 167(1) and (4) of the Public Finance Management (County Governments) Regulations, 2015.

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

312. Idle Staff

Review of staff payroll revealed that a total of sixty-seven (67) clinical officers and sixty-one (61) medical doctors were in the payroll. However, review of the doctor analysis report generated from Integrated Health Management System revealed that no activity was undertaken by the clinical officers and doctors from September, 2023 when Level 4 and 5 hospitals were digitized and from February to March, 2024 when all Level 3 and 4 were digitized.

In the circumstances, efficient service delivery to the public by the clinical officers and doctors could not be confirmed.

COUNTY EXECUTIVE OF MAKUENI– NO.17

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

313. Misclassification of Expenditure

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amount of Kshs.2,223,221,100 which includes an amount of Kshs.992,838,761 for other operating expenses. However, review of sampled payment vouchers revealed that payments totalling Kshs.54,886,832 were irregularly charged to other operating expenses instead of acquisition of assets and compensation of employees. Management did not provide an explanation as to why the transactions were not budgeted for and charged to the appropriate expense code.

In the circumstances, the accuracy of the expenditure on other operating expenses amounting to Kshs.54,886,832 could not be confirmed.

314. Failure to Observe End of the Year Cut-Off Procedures

The statement of receipts and payments reflects an amount of Kshs.8,259,693,356 and Kshs.8,168,030,249 in respect to total receipts and total payments respectively. However, review of the cashbooks and schedules including internet banking statements revealed that receipts and payments amounting to Kshs.1,121,367,449 and Kshs.707,690,719 respectively were received and expensed in the month of July, 2024, which was outside the year under review.

In the circumstances, the accuracy and completeness of the receipts and payments amounting to Kshs.1,121,367,449 and Kshs.707,690,719 respectively could not be confirmed.

Emphasis of Matter

315. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual amounts on a comparable basis of Kshs.10,233,333,653 and Kshs.8,373,777,028 respectively, resulting in an under-funding of Kshs.1,859,556,625 or 18% of the budget.

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

316. Pending Accounts Payables

Annexes 2 and 3 to the financial statements reflects balances of Kshs.676,145,218 and Kshs.10,685,614, for pending accounts payables and pending staff payables respectively totalling Kshs.686,830,832 which were not settled as at 30 June, 2024.

No evidence was provided to confirm that the pending bills formed first charge in the subsequent year.

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 the first charge.

My opinion is not modified in respect of these matters.

Other Matter

317. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the prior year matters as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

318. Irregularities in Human Resource Management Practices

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

Review of the payroll data revealed that one hundred and eighty-seven (187) employees earned a net pay below a third of their basic pay during the month of June, 2024 contrary to Section 19(3) of the employment Act, 2007 which requires total deductions made from salaries not to exceed two-thirds of the basic pay and Section C.1(3) of the Public Service Commission (PSC) - Human Resource Policies and Procedures Manual for the Public Service (2016), which stipulates that, public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries.

318.2 Non-Compliance with the Law on Staff Ethnic Diversity

Review of the County Executive master roll and other staff records indicated that **the** County Executive recruited one hundred and thirty-two (132) employees out of which one hundred and twenty-five (125) or approximately 95% are from the dominant ethnic community in the County. This is contrary to Section 65(1) (e) of the County Governments Act, 2012 which provides 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.

318.3 Failure to Meet Recruitment Threshold on Persons with Disabilities

The County Executive recruited a total of one hundred and thirty-two (132) employees, out of whom four (4) persons with disability were hired which translates to 3%. No explanation was given for failure to meet the 5% threshold on Rights and Privileges of

Persons with Disabilities as provided for under Section B.23 (2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016.

318.4 Non-Compliance with Fiscal Responsibility Requirements on Wage Bill

The statements of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.3,837,996,248 which represents 46% of the total receipts amounting to Kshs.8,259,693,356. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 and Section 107(2) (c) of the Public Finance Management Act, 2012 which requires that the County Government's expenditure on wages and benefits for its public officers shall not exceed 35% of the County Government's total revenue.

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

319. Irregularities in Procurement and Award of Contracts

319.1 Delay in Project Operationalization - Kyumbuni and Kalawani Post Harvesting Facilities

The County Executive through the Department of Agriculture, Livestock, Fisheries and Cooperative Development entered into two contracts on 24 July, 2020 for the construction and equipping of Post Harvesting Facilities (Cold Room Pack Houses) at Kalawani (Tulimani) and Kyumbuni (Mbitini) Wards. The contract sum for each Project amounted to Kshs.36,458,529 all totalling Kshs.72,917,058 out of which an amount of Kshs.71,501,906 was certified and paid to the contractors as at 30 June, 2024. The projects were completed and handed over on 28 June, 2024. However, physical inspection carried out on 11 September, 2024 revealed that, the two projects had not been fully operationalized despite the County Executive incurring cumulative expenditure amounting to Kshs.71,501,906, also the equipping and reticulation of boreholes at Kalawani and Kyumbuni had not been done. Further, external/civil works, land scaping and access road at Kalawani facility had not been done while there were visible buckling/cracks on the floor at Kyumbuni facility. Management had not put in place security measures including fencing of the compound with a perimeter wall to safeguard the facility's assets.

319.2 Delay in Full Operationalization of Kilungu Post Harvesting Facility Project

The County Executive through the Department of Agriculture, Livestock, Fisheries and Cooperative Development entered into a contract on 30 July, 2020 for the construction and equipping of Post Harvesting Facility (cold room pack house) at Kalongo, Kilungu ward. The contract sum was Kshs.35,990,490 out of which an amount of Kshs.33,740,490 was certified and paid. Review of the Project records revealed that equipping and reticulation of the borehole, external civil works, landscaping, and erection of an electrified perimeter wall and gatehouse had not been done to enable full operationalization of the facility as at the time of the audit in September, 2024; Management did not provide documentary evidence to demonstrate any further action to procure the remaining works and fully operationalize the cold room pack house.

319.3 Delay in Procurement and Operationalization of Kasikeu Grain Milling Facility

The County Executive through the Department of Agriculture, Livestock, Fisheries and Cooperative Development entered into a contract for the supply, delivery, installation, testing, training and commissioning for Kasikeu Grain Milling Plant at a contract sum of Kshs.6,415,000. The contract period commenced on 12 April, 2022 for a period of two months. The contract period was extended eight (8) times with a final extension of 20 January, 2023. However, the contractor failed to discharge the contract and it was terminated on 23 January, 2023. In addition, the tender had not been re-awarded eighteen months later since the termination of the contract. No explanation was provided to justify the delayed procurement of the grain milling plant and operationalization of the facility.

319.4 Stalled Project for Mulima Water Project

The County Executive through the Department of Water and Sanitation awarded a contract on 25 May, 2017 amounting to Kshs.3,000,956 for the construction of Mulima Water Project. Review of the Project file and physical inspection of the Project on 16 September, 2024 revealed that, the contract did not specify the completion period, the Project had stalled and the contractor was not on site. Further, the contractor supplied and installed one set of electric motors and multistage centrifugal surface pumps instead of two as indicated in the approved bill of quantities. Also, repair of the masonry tanks at Mavindu Forest, Ntungoni and Kikalyoni had not been completed.

319.5 Project Implementation Status

Review of the County Annual Development Plan and County Annual Progress Report revealed that the County Executive allocated funds totalling Kshs.2,589,473,040 for the implementation of six hundred and thirty-five (635) Projects during the year ended 30 June, 2024. Out of these projects, four hundred and sixty-six (466) with a total allocation balance of Kshs.1,492,673,567 were complete, one hundred and thirty-one (131) projects amounting to Kshs.965,597,676 were ongoing, thirty-two (32) Projects amounting to Kshs.96,054,832 had not started while six (6) projects amounting to Kshs.35,146,971 had stalled.

Further, the Department of Health Services was allocated a total amount of Kshs.351,735,259 for the implementation of sixty-seven (67) Projects. Out of the sixty-seven (67) Projects, forty-two (42) Projects totalling Kshs.235,365,812 were complete, eighteen (18) Projects amounting to Kshs.67,653,477 were ongoing while three (3) Projects amounting to Kshs.6,890,000 had not started. In addition, the construction of Mbooni Isolation Ward and upgrading of Matulani Dispensary with a combined budget allocation amounting to Kshs.29,825,970 had stalled.

In the circumstances, the public did not benefit from the projects as intended hence no value for money.

320. Irregular Payments to the Council of Governors

As previously reported, the statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amounting to Kshs.2,223,221,100. Included in the amount is other operating expenses totaling Kshs.992,838,761 which includes an amount of Kshs.3,600,000 made to the Council

of Governors. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

321. Under Staffing of the Internal Audit Function

The approved County Executive Staff Establishment provides for the Internal Audit Services Department headed by a director. The Directorate has two divisions; that is the Internal Audit and Internal Control, Policies and Systems each headed by a deputy director. However, review of the Staff Establishment revealed that the Directorate had an approved Staff Establishment of twenty-eight (28) employees whereas the actual number in position was six (6), resulting to an understaffing by twenty-two (22) officers.

In the circumstances, the effectiveness of the Internal Audit Department Function could not be confirmed.

COUNTY EXECUTIVE OF NYANDARUA – NO.18

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

322. Variances in the Statement of Comparison of Budget and Actual Amounts – Recurrent and Development Combined

The statement of comparison of budget and actual amounts reflects (Recurrent and Development Combined) reflects the budgeted amount of Kshs.7,757,865,839 for payments. However, three components had amounts that differ with the amounts in the approved budget for the year ended 30 June, 2024 as shown below:

Item	Final Budget Amount as per Financial Statements (Kshs.)	Amount as per Approved Budget (Kshs.)	Variance (Kshs.)
Compensation of Employees	2,449,774,418	2,400,244,418	49,530,000
Use of Goods and Services	1,722,100,262	2,091,530,261	(369,429,999)
Other Grants and Transfers	1,605,882,859	1,285,982,859	319,900,000

In the circumstances, the accuracy and completeness of the respective component amounts could not be confirmed.

323. Expenditures Incurred After the End of the Financial Year

The statement of receipts and payments reflects total payments amounting to Kshs.5,649,519,382 out of which, an amount of Kshs.897,556,896 was paid after 30 June, 2024. The expenditure was backdated in the records of the County Executive as incurred on 30 June, 2024. This was contrary to the International Public Sector Accounting Standards (Cash Basis) reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounts of the County Government entities shall record transactions which take place during a financial year running from the 1 July to 30 June.

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

In the circumstances, the accuracy and completeness of the expenditure amounting to Kshs.897,556,896 could not be confirmed.

324. Variances Between Financial Statements Balances and Integrated Financial Management Information System (IFMIS) Report

The financial statements for the year ended 30 June, 2024 reflects account balances that are at variance with the corresponding account balances generated from IFMIS as summarized below.

Item	Balance as per Financial Statements (Kshs.)	Balance as per IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Exchequer releases	5,710,177,876	-	5,710,177,876
Compensation of Employees	2,440,833,652	4,488,045	2,436,345,607
Use of Goods and Services	1,364,803,693	442,993,152	921,810,540
Transfer to Other Government Entities	130,311,675	384,671,995	(254,360,320)
Other Grants and Transfers	563,039,345	-	563,039,345
Acquisition of Assets	1,150,531,018	186,936,735	963,594,282
Other Payments	-	151,226	(151,226)
Bank Balances	319,324,783	(1,099,048,945)	(1,418,373,728)
Cash Balances	-	1,523,997,380	1,523,997,380
Accounts Receivables - Outstanding Imprest and Advances	3,096,099	310,225,263	(307,129,164)
Accounts Payables - Deposits and Retentions	107,275,355	5,176,711,375	(5,069,436,602)
Fund Balance b/fwd	154,487,034	(3,417,346,871)	(3,571,833,905)

In the circumstances, the accuracy and completeness of the respective component amounts reflected in the financial statements could not be confirmed.

325. Variances Between Appropriation Account and Payment Details

Examination of the payment details revealed that various transactions totalling Kshs.52,341,012 were paid during the year ended 30 June, 2024. However, the balances were not supported by specific budgeted line items in Appropriation Account. Management did not provide explanation for not reflecting the transactions in the approved budget or appropriation account contrary to Section 104(1) Public Finance Management (County Governments) Regulations, 2015 which states that all receipts and payment vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

In the circumstances, the accuracy and completeness of the payments amounting to Kshs.52,341,012 could not be confirmed.

326. Unsupported Budget Adjustments

The statement of comparison of budget and actual amounts (Recurrent and Development Combined) reflects transfers from the CRF adjustments totalling

Kshs.531,345,973 each for receipts and payments. However, the adjustments lacked information regarding actual expenditure and commitments against the planned activities as at the date of request for supplementary allocations. Additionally, the estimates lacked footnotes explaining the reasons for the variations and the impact or implications for the affected programmes, contrary to Regulation 39(6) and (7) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the request for supplementary budget shall be presented in a format that facilitates comparison with the original budget and shall contain all the information necessary to enable a decision on the application to be reached.

Further, the supplementary budget was not supported with memorandum from the Accounting Officers to the County Treasury providing explanation for the additional funding requests or vice versa, contrary to Regulation 39(7) of the Public Finance Management (County Governments) Regulations, 2015, that provides that the County Government entity requesting additional funds through a supplementary budget process shall submit a memorandum to the County Treasury, on a date determined by County Treasury.

In the circumstances, the accuracy and completeness of the budget adjustments amounts of Kshs.531,345,972 in respect of both receipts and payments could not be confirmed.

327. Unreconciled Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.563,039,345 as disclosed in Note 7 to the financial statements. Included in the amount is Kshs.204,900,000 in respect of transfers to scholarships and other educational benefits. However, the balance of Kshs.204,900,000 differed with the Controller of Budget amount of Kshs.182,500,000 resulting in an unreconciled and unexplained variance of Kshs.22,400,000.

In the circumstances, the accuracy and completeness of the scholarship and other educational benefits amount of Kshs.204,900,000 could not be confirmed.

328. Unreconciled Pending Bills

The financial statements under Note 1 on other important disclosures and Annex 2 reflect pending bills totalling Kshs.2,965,410,323 as at 30 June, 2024. However, the pending accounts payable balance brought forward of Kshs.2,372,391,468 varies with the prior audited financial statements balance of Kshs.1,121,910,741 resulting in an unexplained and unreconciled variance of Kshs.1,250,480,727.

In addition, the demand letter from the Local Authorities Provident Fund (LAPFUND) dated 27 July, 2023 revealed total outstanding balances of Kshs.155,392,817 in respect of accrued interest. Further, review of demand letter from the Central Provident Fund (CPF) dated 15 May, 2024 reflected an outstanding balance of Kshs.16,926,615 in respect of accrued interest on unremitted contribution and Actuarial interest amounts of Kshs.11,953,015 respectively totalling Kshs.28,879,630.

In addition, the assessment notice from Kenya Revenue Authority dated 13 March, 2023 reflects penalties of Kshs.7,685,068 and interest of Kshs.42,243,599

respectively resulting to total amount of Kshs.49,928,668. Had the County Executive remitted the respective deductions by due deadlines from 30 April, 2023, savings of Kshs.71,123,229 would have been made from penalties and interest. There was no evidence of measures taken by Management to negotiate with the Local Authorities Provident Fund (LAPFUND), Central Provident Fund (CPF) and Kenya Revenue Authority (KRA).

In the circumstances, the completeness, and accuracy of disclosure made of pending bills balance of Kshs.2,965,410,323 could not be confirmed.

329. Unexplained Voided Transactions

Review of the financial records revealed that three thousand one hundred and twenty (3,125) transactions in IFMIS amounting to Kshs.526,040,886 were voided. However, supporting documents such as voided payment vouchers. The National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit. Further, the voided payments have not been disclosed as pending accounts payable and the utilization of funds meant for voided transactions was also not confirmed.

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

Emphasis of Matter

330. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development combined reflects a total receipts final budget of Kshs.7,757,865,839 against actual receipts of Kshs.5,710,177,876 resulting in an under-funding of Kshs.2,047,687,963 or 26%. However, the County Executive spent an amount of Kshs.5,649,519,383 against a receipt of Kshs.5,710,177,876 resulting in under-utilization of Kshs.60,658,493 of the actual receipts.

The under-funding is an indication that not all activities and projects in the annual work-plan were implemented by the County Executive which may have negatively impacted on the delivery of services to the public.

331. Late Exchequer Releases

The statement of receipts and payments reflects transfers from County Revenue Fund in form of exchequer releases amounting to Kshs.5,710,177,876. Review of revenue records provided for audit revealed that exchequer releases amounting to Kshs.693,583,413 were received during the month of July, 2024.

In the circumstances, the late disbursement of exchequer releases by The National Treasury impacted negatively on service delivery to the public.

My opinion is not modified in respect of these matters.

Other Matter

332. 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 did not resolve the issues or provided any explanation for failure to resolve the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

333. Compensation of Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,440,883,652 and as disclosed in Note 3 to the financial statements. However, the following unsatisfactory issues were noted;

333.1 Lack of an Approved Staff Establishment

Review of the personnel records revealed that the County Executive recruited seventy-four (74) officers in various positions in the year under review. However, there was no approved staff establishment as prescribed by Section B.2(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires every public entity to prepare Human Resource Plans based on comprehensive job analysis to support achievement of goals and objectives in their strategic plans.

The hiring of the officers was also contrary to Section B.3 (1) of the Public Service Commission Human Resource Policy, 2016 which provides that an authorized officer shall declare all vacant posts to the Public Service Commission in accordance with the procedures set out in the Commission's regulations.

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

Review of the payrolls for the year under review revealed that the County Executive had two thousand four hundred and eighty (2,480) employees out of whom two thousand three hundred and seventy (2,370) or 96% were from the dominant ethnic community in the County.

Further, the recruitment during the year failed to remedy the ethnic disparity as seventy-four (74) staff were hired, out of whom seventy-one (71) or 96% were from the dominant ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment should employ more than one-third of its staff from the same ethnic community.

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

The statement of receipt and payments reflects compensation of employee balance of Kshs.2,440,833,652 or forty-three (43%) of total receipts of Kshs.5,710,177,876. This, however, exceeded the prescribed limit of thirty-five (35) percent contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the county government's expenditure on wages and benefits for its public officers shall not exceed the thirty-five (35%) percent of the county government's total revenue.

333.4 Payment of Salary Outside IPPD System

The statement of receipts and payments reflects compensation of employees balance of Kshs.2,440,833,652 and as disclosed in Note 3 to the financial statements which includes basic salaries of permanent employees amount of Kshs.2,353,987,513. However, out of this amount, Kshs.57,777,835 was paid outside the Integrated Payroll and Personnel Database (IPPD) system. This was contrary to National Treasury Circular No. 8/2021 of 19 July, 2021, on guidelines for the preparation of the 2022/23–2024/25 Medium Term Budget, which required all allocations on personnel emoluments to be supported by Integrated Personnel Payroll Data (IPPD).

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

334. Failure to Recruit a Solicitor General

The Legal Department did not have a Solicitor General as required by Section 17(1) of the Office of the County Attorney Act, 2020. No explanation was received from the County Public Service Board for not appointing the Solicitor as per the Act.

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

335. Irregular Engagement of Consultants for Legal Services

The Office of the County Attorney had a list of one hundred and fifty-five (155) cases out of which thirty (30) were being handled by inhouse advocates, fifty (50) by private law firms and seventy-five (75) were not indicated. However, the procurement for the external legal services was not approved by the County Executive Committee. This was contrary to Section 16(1) of the Office of the County Attorney Act, 2020 which provides that a department or public entity established within a County Executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without the approval of the County Executive Committee.

Further, procurement of the legal consultants was not competitively sourced since they were directly picked from the registered prequalified legal firms. The County Attorney would then issue written instructions to the selected legal firm. This was 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. This is an indication of skewed procurement of legal services to the disadvantage of other firms.

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

336. Non-Adherence to the Stipulated Budget Process Timelines

Review of the budget related documents revealed that the approval of the Annual Development Plan and the adoption of the County Fiscal Strategy Paper did not meet the set timelines as they were delayed for a period of forty-five (45) and three (3) days respectively contrary to Section 128(4) of the Public Finance Management Act, 2012.

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

337. Excessive Budgetary Allocation to the County Assembly

Review of the County Executive budget revealed that an amount of Kshs.990,285,706 was allocated to Nyandarua County Assembly. This allocation was equivalent to eleven (11) per cent of the total County Revenue budget for the year amounting to Kshs.8,748,151,545. Thus, the ratio was in excess of the set threshold of seven (7) per cent by Kshs.377,915, 098 contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulation, 2015 which provides that the approved expenditure of a County Assembly shall not exceed seven (7) per cent of the total revenues of the County Executives or twice the personnel emoluments of that County Assembly, whichever is lower.

Further, no evidence was provided to confirm that the County Executive Committee Member for Finance and Economic Planning had submitted a responsibility statement to County Assembly explaining the reasons for the deviation or provided a plan on how to ensure annual actual expenditure outturns in the subsequent years.

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

338. Irregular Revenue Collection and Management System Extension

Review of records indicate that, the County Executive awarded a contract for the supply, delivery, customization, implementation, training, piloting and commissioning of a revenue collection and management system on 20 November, 2019 for a term of three (3) years. However, the County Executive made an extension of up to 19 November, 2025, the extension was not supported by approval by the evaluation committee or opinion of head of procurement and therefore was irregular.

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

339. Irregular Payments of Subscription to the Council of Governors

The County Executive made payments amounting to Kshs.1,360,000 to the Council of Governors. The funds were to cater for the summit, the Council of County Governors, the Technical Committee, Secretariat and the sectoral working group established by the Technical Committee and the sectoral working groups established by the Council. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in 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.

340. Non-Compliance with the Law on Pending Bills

Other important disclosures number 1 reflects pending accounts payable balance of Kshs.2,965,410,323. The following anomalies were noted:

340.1 Non-Settlement of Pending Bills

Management paid amount of Kshs.184,505,623 in respect of pending bills during the year leaving a brought forward balance of Kshs.2,187,885,845. However, this balance did not form a first charge on the County Revenue Fund. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires debt service payments to be a first charge on the County Revenue Fund and that the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations. Further, updated creditors movement ledgers/schedules were also not maintained in the year under review.

340.2 Irregular Expenditure on Designated Departments

The pending bills paid amount of Kshs.184,505,623 includes expenditure amounting to Kshs.2,300,805 in respect of payments for installation of metal gate, repainting works, finishing works, storm water drainage repair work and signages in OI Kalou new market. However, it was noted that the works were fully domiciled under the fully operational OI Kalou Municipality which had its own budgetary resource.

Further, the County Executive paid a total of Kshs.11,133,665 in bills on behalf of the OI Kalou Municipality which was fully operational and had its own budgetary resource, contrary to Regulation 71(4) of the Public Finance Management (County Governments) Regulations, 2015 which provides that a county government entity is not allowed to give another County government entity cash donation to augment the budgetary resources of designated departments.

340.3 Irregular Commitments for Supply of Goods and Services

The pending bills includes an amount of Kshs.777,524,478 in respect of pending bills incurred during the year. The amount includes commitments/contracts for various supply of goods and services totalling Kshs.194,563,210 which were made after 31 May, 2024 without the written approval of the Accounting Officers contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that all commitments for supply of goods or services shall be done not later than the 31 May each year except with the express approval of the accounting officer in writing.

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

341. Projects Implementation

341.1 Incomplete and Low Absorption in Projects Implementation Status Report

The statement of comparison of budget and actual amount (Development) reflects budgeted amount of Kshs.3,071,100,160. However, the project implementation status report indicates that there were seven hundred and seventy (770) projects with a budget of Kshs.3,070,266,288 resulting in an unexplained variance of Kshs.833,872. Further, the project implementation status report reflects that five hundred and twenty-one (521) projects amounting to Kshs.1,401,554,550 were completed, two hundred and seven (207) projects totalling Kshs.1,604,634,150 were ongoing, and forty-two (42) projects amounting to Kshs.64,077,588 had not started.

In addition, the County Executive had low absorption of the budget towards development at 47% of the development budget after spending a total of Kshs.1,150,531,018 towards implementation of the projects during the year under review. This may be an indication of inadequacy in project planning and control mechanisms to ensure efficient absorption of available funds.

341.2 Stalled Construction of the County Headquarters at Ol Kalou

The construction of the County Headquarters was awarded a contract sum of Kshs.617,644,564 for a period of one hundred and four (104) weeks commencing 16 March, 2017 with an estimated completion date of 15 March, 2019. The completion date was revised to 30 June, 2019 and again to 30 June, 2021 and later to 31 December, 2022. In the Memorandum of Understanding (MOU) entered into with the State Department for Public Works in January, 2021, the County was to fund 30% of the cost of the project and National Government was to fund the balance of 70%. According to payment records, the County had made payments amounting to Kshs.60,617,658 while the National Government had paid an amount of Kshs.279,218,554 which translates to total payments of Kshs.339,836,213 or 55% of the contract sum with a contract balance of Kshs.277,808,351 before variation by Kshs.142,293,606.

Available information indicated that there was a variation order amounting to Kshs.142,293,606 resulting in a revised contract sum of Kshs.756,938,171. However, there was no evidence to show that the cost variation was reviewed by the Project Implementation Team and submitted through the head of procurement function to the Accounting officer for approval contrary to Section 151(42)(e) of the Public Procurement and Asset Disposal Act, 2015.

The contract was mutually terminated on 14 October, 2022 between the contractor and the employer. The County Executive then awarded the contract to another contractor on 29 May, 2023 for a contract sum of Kshs.449,097,569 for a period of one hundred and two (102) weeks commencing 9 June, 2023 and the estimated completion date of 23 May, 2025.

However, the following anomalies were noted;

- i) There was no evidence that the contract implementation team attempted to warn and possibly terminate the services of the contractor earlier than 16

March, 2019, which was the initial project completion date, when 19% of works had been delivered.

- ii) At the time of termination, payments amounting to Kshs.339,836,213 had already been made to the contractor, and the project was significantly behind schedule as a result of engaging a contractor who could not deliver as per the contract engagement terms and delays in payments due to the contractor.
- iii) There were additional charges related to the project totalling Kshs.70,673,632 occasioned by fluctuations of builders work and materials, interest on delayed payments, contractual claims and changes in the contractors which were occasioned by delays in project implementation and which were certified for payment.
- iv) A certificate of partial completion was not issued between the previous contractors and the County Executive before being paid the retention fees.
- v) There was failure to appoint a contract implementation team to manage complex contracts by monitoring the performance of the contractor.

341.3 Irregularities in the Proposed Construction of County Aggregation and Industrial Parks

The Management entered into contract to construct the County Aggregation and Industrial Parks (CIAP) at Njambini Agricultural Training College (ATC) on 29 January, 2024 at a contract sum of Kshs.464,360,410 which was to run for twenty-eight (28) weeks up to 11 August, 2024. The County Executive was to fund 50% of the cost of the project and National Government was to fund the balance of 50%.

According to payment records, the County Executive had made payments amounting to Kshs.35,526,100 while the National Government had not paid any amount which translates to 8% of the contract sum, 17% of the work completed and time elapsed was thirty-three (33) weeks or 67% of the completion period. However, physical verification of the project carried out in the month of September, 2024 revealed that the project was at substructure works level (back filling and making up, hardcore filling and compaction, anti-termite treatment and reinforcement work level) at aggregation warehouses and cold storage level and substructure works level (blinding, reinforcement, formwork fixing and concreting to foundation footing and column base level) at value addition warehouses level. In addition, the quality of excavation before murram, hardcore filling and compaction at aggregation level section was not satisfactory.

In addition, the quality of excavation before murram, hardcore filing, and compaction at the initial works done at aggregation level section was not satisfactory. Further, the exercise of compaction was observed during audit verification being carried out manually instead of utilising ton machete earth compactor.

However, review of the contractor works program revealed that the aggregation warehouses and cold storage sub structure level should be complete and value addition warehouses level should be at substructure works level (reinforcement, formwork fixing and concreting to ground floor slab level) and thus the works were

progressing at a slow pace since the contractor appeared to have slowed down the works.

Further, review of documents revealed that the contractor requested and obtained an extension of the project contract period to 31 December, 2024. However, there was no evidence to show that the time extension and variation were reviewed by the Project Implementation Team and submitted through the head of the procurement function to the Accounting Officer for approval as required under Section 151(42)(e) of the Public Procurement and Asset Disposal Act, 2015.

341.4 Irregularities in the Proposed Construction of Medical Complex

The Medical Complex at JM Memorial County Referral Hospital project was awarded a contract sum of Kshs.1,468,740,156 for a contract period of one hundred and fifty-six (156) weeks commencing 7 July, 2021. The estimated completion date was 7 July, 2024 but was revised to 1 July, 2026. According to the status report of October, 2023, the contract sum was revised by an amount of Kshs.128,421,781 or 8% to Kshs.1,601,026,888. However, though the variation of the contract sum was within the limits of price variation of 25%, there was no evidence to show that the cost variation was reviewed by the Project Implementation Team and submitted through the head of the procurement function to the Accounting Officer for approval as required under Section 151(42)(e) of the Public Procurement and Asset Disposal Act, 2015.

Further, no approval for variations to the contract were provided for audit and Management did not explain the circumstances under which the above-contracted works were omitted at the execution stage.

In addition, the project status report of 14 June, 2024 indicated that an amount of Kshs.419,499,283 had been certified for payment, with the project being 64% complete. However, the elapsed period of the project was indicated as being one hundred and sixty-six (166) weeks (66%) indicating that the project was significantly behind schedule. The total amount paid to the contractor as at 9 September, 2024 amounted to Kshs.402,473,740.02 or 25% of the revised contract sum.

Review of records, revealed that there were additional charges related to the Project totalling Kshs.14,463,908 occasioned by fluctuations of builders work and materials which were as a result of delays in project implementation and which were certified for payment. Further review of documents revealed that the total pending certificates for the project amounted to Kshs.17,025,543 comprising of certificate No.11 of Kshs.12,423,681 and No.10 of Kshs.4,601,862. These certificates have been delayed for payments by 88 days and 215 days respectively.

341.5 Governor's Official Residence

A contract for construction of the Governor's residence at a contract sum of Kshs.43,415,636 was awarded on 18 April, 2024. The contract period was thirty-two (32) weeks with expected completion date of 24 December, 2024. According to the Salaries and Remuneration Commission Circular, the acreage limits for the construction of the houses for the Governor is up to two acres and up to one acre for the Deputy Governor and County Assembly Speaker. However, the Governor's house

is being constructed on 3.34 hectares of land. Further, no title deed was provided to confirm ownership of the land apart from the letter of allotments.

341.6 Irregularities in the Installation and Maximization of Transformers

The statement of receipts and payments and as disclosed in Note 9 to the financial statements, reflects acquisition of assets amount of Kshs.1,150,531,018 which includes an amount of Kshs.59,998,592 in respect of specialized plant, machinery and equipment. The County Executive engaged Kenya Power and lighting Company (KPLC) for installation and maximization of the transformers. However, included in the amount of Kshs.59,998,592 is a balance of Kshs.7,200,447 which was paid to KPLC for the installation and maximization of the transformers which was yet to be done.

Further, the supplier was paid in advance before delivery contrary to Regulation 98(2) of Public Finance Management (County Governments) Regulations, 2015 which requires that, advance payment shall not be paid to supplier of services and goods unless provided for in the contractual terms and conditions contained in a valid contract signed between the procuring entity and the supplier.

In the circumstances, Management was in breach of the law and the value for money for the funds spent on the above expenditure could not be confirmed.

342. Un-Remitted and Withheld Taxes

A notice of assessment on tax reconciliation exercise conducted at the County Executive for the period July, 2017 to June, 2022 by Kenya Revenue Authority revealed that, an amount of Kshs.153,701,376 was raised as the principal taxes which accrued penalty and interests of Kshs.7,685,068 and 42,243,600 respectively. As at 30 June, 2024, the County Executive had transferred an amount of Kshs.50,000,000 in two instalments of Kshs.25 million each.

Also, included in the amount of Kshs.153,701,376 was a loss of Kshs.51,845,674 arising from failure by the County Executive to deduct and withhold VAT and income tax as prescribed under tax procedures and rules.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

343. Lack of Information Technology Systems Interface

Two internal systems namely Hospital Management Information System (HMIS) and County Pay (USSD) which are in operation have not been integrated or interfaced with each other to facilitate a common shared data base and better service delivery in executing the County Executive Mandate. Further, it was observed that the Unstructured Supplementary Services (*718#) (USSD) usage and maintenance is obtained directly from the software developer without any formal service level agreement or patent ownership rights, but through another supplier managing the

County Pay system responsible for revenue management. This state of affairs may expose the County Executive to disruption of operations in the event the developer discontinues services.

In addition, the continued use of USSD undermines the full implementation of revenue collection which is more superior and meant to capture full revenue stream from mapping to payments including the collections obtained in each stream and targets.

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

344. Functioning of the Internal Audit

344.1 Lack of an Audit Committee

The term of the Audit Committee Members expired in October, 2023 after serving for three (3) years and a new committee had not been appointed. This was contrary to Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County Government entity to establish an audit committee.

344.2 Weaknesses in Internal Audit Function

The internal audit department had developed an annual work plan to carry out seven categories of audit assignments. However, this was not approved by the audit committee. This was contrary to Regulation 163(2b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the annual work plans developed be approved by the audit committee and shared with the Accounting Officer of that entity for inclusion in the budget of that entity.

Further, only two audit reports out of the seven were provided for audit review. Therefore, the absence of the audit reports is an indication that the Audit Department did not carry out their mandate as provided for under Regulation 153(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires internal auditors to review and evaluate budgetary performance, financial management, transparency, and accountability mechanisms and processes in County Government entities.

In addition, it was noted the Internal Audit Department lacked functional independence since there was no Audit Committee in place. This was contrary to Regulation 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the head of the internal audit unit in a County Government entity to enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

In the circumstances, the effective management of risks, controls, governance and associated assurances could not be confirmed.

345. Lack of Risk Management Policy

Management did not provide supporting documents, for audit review, as evidence of existence of a risk management policy to guide Management on risk assessment and

formulation of risk mitigation strategies in the year under review. This is contrary to Section 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations.

In the circumstances, it was not possible to confirm whether the internal controls built within the financial and operational systems were functioning.

346. Weaknesses in the Legal Department

The Office of the County Attorney did not prepare and submit annual reports to the Governor and the County Assembly, with details as outlined in Section 28 of the County Attorney Act, 2020. It was therefore not possible to confirm the number of cases which had been ruled in favour of or against the County. In the absence of a status report, it was also not possible to confirm the nature of the cases in terms of whether they had been finalized or they were still on going. Thus, the County Executive may also not efficiently plan and budget for legal costs.

Further, the County has a fully-fledged Litigation Department. However, it was not clear why the County was defended by external legal officers in some of the legal cases. Review of the staff list provided for audit revealed that the department had five (5) legal counsels against a proposed number of eight (8). This may result to inefficient service delivery and hiring of expensive external legal services.

In addition, it was observed that the physical case files in the registry are kept in manual format. There was no electronic copy or back up of the files, or fireproof cabinets to protect the files from fire or any other damage. The office was not well secured as it had a wooden door with no biometric access. As a result, the office was at risk of being broken into and this may lead to loss of files and data.

It was also observed that the office had one hundred and fifty-five (155) case files. However, the documents in the respective files were not serialized making it possible for file manipulation and this may lead to loss of information. Further, the file movement register was manual and not updated.

In the circumstances, the effectiveness of the system in place to evaluate the status and outcomes of litigations could not be confirmed.

347. Lack of Logbooks and Vehicle Status

Records provided for audit revealed that the County Executive has two hundred and sixty-two (262) motor vehicle and fifty-four (54) motor cycles. However, only two hundred and twenty (220) and thirty-nine (39) logbooks for both motor vehicles and motor cycles were provided for audit review leaving a balance of forty-two (42) and fifteen (15) respectively not provided for verification. Further, an updated status report detailing the condition of the vehicles was not provided for audit.

In the circumstances, ownership, existence and serviceability the vehicles could not be confirmed.

348. Failure to Adhere to Vote Control Guidelines on Subsistence Allowance

Included in the expenditure for subsistence allowance at Note 1 to the financial statements totalling Kshs.240,135,169 is an amount of Kshs.10,281,796 relating to domestic travel and subsistence which was paid as reimbursement or claims for expenditure incurred without adhering to vote control procedures and without application and approval for imprest vide Imprests warrants.

In the circumstances, the effectiveness in controls over domestic travel and subsistence allowance could not be confirmed.

349. Irregularities in Leasing of the Medical Equipment Services

The statement of receipts and payments reflects transfers from the CRF amount of Kshs.5,710,177,876. Further, Note 8 to the financial statements under other important disclosures reflects a balance of Kshs.124,723,404 incurred in respect of leased medical equipment. However, records provided for audit revealed that the County Executive in 2015 signed a Memorandum of Understanding (M.O.U) with the Ministry of Health on implementation of Health Care Information Technology (HCIT) otherwise referred to as the Managed Equipment Services (MES). According to the annual County Allocation of Revenue Act (CARA), in the nine (9) years that the MES Programme has been in operation, the County Executive has cumulatively paid lease rentals amount of Kshs.1,139,829,968.

In addition, and as previously reported, examination of records revealed that the basis of the amounts of annual lease rentals could not be determined and the County Executive did not have a register for recording the delivered MES assets. Inspection and acceptance certificate were not provided for audit review and the leased equipment were not included in the asset register.

Further, Lots 3 and 4 of the MES equipment were not supplied despite the fact that the County Executive had constructed two laboratories for the items while the Intensive Care Unit (ICU) equipment which were under Lot 6 reserved for level 5 hospitals had not been provided since the County Executive did not have such facility.

In circumstances, the value for money on the cumulative lease rental of Kshs.1,139,829,968 could not be confirmed.

350. Lack of an Updated Fixed Assets Register

The financial statements reflects a summary of fixed assets register comprising assets with a historical cost of Kshs.13,259,510,324 as disclosed in Annex 6, with additions during the year of Kshs.1,150,531,018 resulting to total assets balance of Kshs.14,410,041,342 as at 30 June, 2024. However, as previously reported, the County Executive did not provide for audit verification on updated Fixed Assets Register. In addition, these assets were not tagged and properly recorded in both manual and automated registers hence prone to misplacement and loss.

In the circumstances, the effectiveness of asset management by the County Executive during the year under review could not be confirmed.

COUNTY EXECUTIVE OF NYERI – NO.19

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

351. Receipts and Payments Outside the Financial Reporting Period

The statement of receipts and payments reflects total receipts and payments amounting to Kshs.7,253,744,913 and Kshs.7,198,713,560, respectively. However, review of the receipts and expenditure schedules presented for audit revealed that receipts and payments totalling Kshs.1,514,891,784 and Kshs.1,528,872,371 respectively, related to the month of July, 2024 and were therefore outside the reporting period contrary to Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015, which states that the accounts of the County Government entities shall record transactions which take place during the financial year running from 1st July to 30th June.

In the circumstances, the accuracy and completeness of the receipts and payments amount of Kshs.7,253,744,913 and Kshs.7,198,713,560, respectively could not be confirmed.

352. Irregular Charge of Bank Accounts

The statement of assets and liabilities reflects bank balance of Kshs.300,781,139 as disclosed in Note 13A to the financial statements. However, analysis of payment details and bank statements showed that the Management paid recurrent expenditure amounting to Kshs.292,401,605 from development bank account. Further, development expenditure amounting to Kshs.108,053,672 were paid from recurrent bank account.

In the circumstances, the accuracy, regularity and completeness of the bank balance amount of Kshs.300, 781,139 could not be confirmed.

353. Irregularity of Voided Payments

Analysis of the Integrated Financial Management System (IFMIS) payments revealed that seven hundred and twenty-two (722) transactions with a value of Kshs.527,252,503 were voided during the year across various financial statements components. However, no evidence was provided to confirm that the Controller of Budget was informed of the voiding of the payments so as to make necessary adjustments and approvals. Out of the voided transactions, payment details revealed that ten (10) transactions amounting to Kshs.3,920,866 were later paid.

In the circumstances, the accuracy and regularity of the voided transactions could not be confirmed.

354. Staff Sharing Bank Account

The statement of receipts and payments reflects a balance of Kshs.3,981,766,676 for compensation of employees as detailed in Note 3 to the financial statements.

However, analysis of staff payroll data revealed that there were three (3) bank account numbers shared by six (6) staff members. The total amount paid to the officers for a period of six (6) months from January, 2024 to 30 June, 2024 was Kshs.681,442.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.681,442 could not be confirmed.

Emphasis of Matter

355. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (Recurrent and Development Combined) reflects final total receipts budget of Kshs.8,126,687,855 and actual amount of Kshs.7,253,744,913 resulting to a shortfall of Kshs.872,942,942 or 11%. Further, the statement of comparison of budget and actual amounts reflects final budget of Kshs.1,544,858,532 for acquisition of assets out of which projects with a budgetary allocation of Kshs.81,770,578 were not implemented as at 30 June, 2024.

In the circumstances, the under-funding may negatively have impacted on service delivery and development projects for the year were not implemented as planned.

356. Delayed Exchequer Disbursements

The statement of receipts and payments reflects transfers from CRF totalling Kshs.7,253,744,913 as detailed in Note 1 to the financial statements. However, during the year under review, the audit of the exchequer disbursements for the County Executive revealed that a total of Kshs.6,159,044,124 was not received on time. This was as follows: The Exchequer disbursement for the first quarter was done 14 days after the deadline for disbursement, the last exchequer disbursement for second and third quarter was done two months after the disbursement deadline, while the fourth quarter was disbursed two months after the deadline on 26 June, 2024 almost at the close of the financial year. This was contrary to Section 17(6) of the Public Finance Management Act, 2012, which states that the National Treasury shall, at the beginning of every quarter, and in any event not later than the fifteenth day from the commencement of the quarter, disburse monies to county governments. Section (7) The disbursement referred to in subsection (6) shall be done in accordance with a schedule prepared by the National Treasury in consultation with the Intergovernmental Budget and Economic Council, with the approval of the Senate, and published in the Gazette, as approved, not later than the 30 May in every year.

In the circumstances, the delayed disbursements may have negatively impacted on service delivery to public through failure to implement the planned programmes for the year.

357. Pending Bills

The financial statements reflect pending accounts payables of Kshs.141,137,831 as disclosed in Note 20.1 of other important disclosures and detailed under Annex 2. The pending bills are comprised of recurrent and development balances of Kshs.120,719,911 and Kshs.20,417,919 respectively. The following observations were made;

- i) Review of verified pending bills showed that there were outstanding payables amounting to Kshs.7,540,450 that have been outstanding for more than one-year, some date back to 29 August, 2019. It is not clear why they were not the first charge in the subsequent financial year, contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulation, 2015.
- ii) Review of pending bills for the period showed that expenditure commitments and contracts amounting to Kshs.25,365,273 were made in the month of June, 2024, contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015, which states that all commitments for supply of goods and services shall be done not later than 31 May each year except with express approval of the accounting officer.
- iii) Review of recurrent pending bills showed that there was a total of Kshs.49,604,653 that related to pending staff payables, out of which an amount of Kshs.3,273,734 related to prior year periods which date back to 2022. It was not clear why staff payables relating to prior periods were not disclosed in the audited financial statements for the year ended 30 June, 2023.
- iv) Pending bills at the start of the financial year totalled Kshs.67,479,256 which included pending bills for goods, pending bills for services, pending bills for construction and civil works and pending bills for construction of buildings balances of Kshs.26,068,015, Kshs.20,593,350, Kshs.13,720,608 and Kshs.6,737,284 respectively. However, the Office of the Controller of Budget reported pending bills totalling Kshs.88,480,000 at the start of the financial year, comprising Kshs.67,950,000 for recurrent expenditure and Kshs.20,530,000 million for development activities, resulting to unreconciled and unexplained variance of Kshs.21,000,744.
- v) Review of status report of litigations provided for audit by the Office of the County Attorney showed that there were sixty (60) cases whose judgments had been delivered and the cases closed, pending update from counsel and the matters had been scheduled for mention, and the respective fee notes had been raised by the advocates on record. The outstanding legal fees for these cases totalled Kshs.77,079,211. It is not clear why they were not disclosed as part of pending accounts payable.
- vi) Review of a sample of payments made in the financial year showed that there were pending bills that were paid in the financial year amounting to Kshs.3,980,900, yet they had not been disclosed in the prior year audited financial statements, raising doubts as to whether they were eligible bills.

In the circumstances, failure to fully disclose and settle bills during the year to which they relate distorts the credibility of the financial statements and adversely affects the budgetary provisions for the subsequent years as they form a first charge.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

358. Regularity of Human Resource Management Practices

358.1 Non-Compliance with the Fiscal Responsibility Requirements on Wage Bill

The statement of receipts and payments reflects compensation of employees balance of Kshs.3,981,766,676 as disclosed in Note 3 to the financial statements, which translates to fifty five (55) percent of the County Executive total revenue of Kshs.7,253,744,913 This, however, exceeded the prescribed limit of thirty-five (35) percent contrary to Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the county government's expenditure on wages and benefits for its public officers shall not exceed the thirty-five (35%) percent of the county government's total revenue.

358.2 Unremitted Payroll Deductions

The statement of assets and liabilities reflects a balance of Kshs.138,401,547 in respect deposits and retention as disclosed in Note 15 to the financial statements out of which an amount of Kshs.104,619,139 relates to a deposit account balance which includes payroll deductions of Kshs.7,736,275. The payroll deductions relate to Central Organisations of Trade Unions, Kenya Society of Physiotherapy, Kenya Association of Livestock, NECCO Sacco and Xplico Insurance among others. The monies have however, not been remitted to the respective institutions or refunded back to the employees over the last three (3) years. In addition, Management may be sued for failing to remit the deductions and the employees might fail to get accrued benefits from the affected institutions which may hinder their performance in service delivery.

358.3 Non-Compliance to the Law on Staff Ethnic Diversity

Review of employee records for the County Executive showed that the dominant ethnic community employed as at 30 June, 2024 constitutes 94% (3,330) out of the total population of 3,558 employees. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one-third of its staff from the same ethnic community.

Further, an examination of master data and payroll records and a list of new recruitments for the year ended 30 June, 2024 revealed that the County Executive recruited one hundred and fifty-five (155). However, one hundred and fifty (150) or 97 % were from the dominant Ethnic community. That was 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 dominant ethnic community in the County.

358.4 Non-Compliance with a Third of Basic Salary Rule

Review of payroll data for the year ended 30 June, 2024 revealed that a total of 214 employees were paid a net salary that is less than a third of their basic pay in the

month of June, 2024. The excessive deductions resulted from Management allowing the staff to incur loans and other liabilities whose repayments deduction put the officers at the risk of pecuniary embarrassment. Further, it was noted that some staff members had total deductions that were more than their gross pay thus having a negative-net pay contrary to Section 19(3) of the Employment Act, 2007 and Section C.1 (3) of Public Service Commission-Human Resource Policies.

358.5 Failure to Meet Recruitment Thresholds for Persons with Disabilities

Review of payroll for June, 2024, showed that Management recruited a total of one hundred and fifty-five (155) employees but there was no person living with disability. This is contrary to the provisions of Section B.23(2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 that sets a threshold of 5% of positions to be filled by persons with disabilities.

358.6 Salaries Paid Outside the Integrated Payroll and Personnel Database

Review of records provided for audit showed that Management operated two payroll systems namely; a manual (Excel format) payroll system and the Integrated Payroll and Personnel Database (IPPD) system. Out of the total provisional compensation of employees' expenditure of Kshs.3,981,766,676 an amount of Kshs.268,587,823 was reported through the manual payroll system contrary to National Treasury Circular No. 8/2021 of 19 July, 2021, on Guidelines for preparation of 2022/23 - 2024/25 Medium Term Budget, that required all allocations on personnel emoluments to be supported by Integrated Payroll and Personnel Data (IPPD).

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

359. Failure to Adhere to the Effectiveness of Implementation of Audit Recommendations

Management has not submitted a report on how it has addressed the Senate and County Assembly recommendations on the Auditor-General audit reports for any of the years including 2022/2023. This is contrary to Section 31(1)(a) of the Public Audit Act, 2015 which states that within three months after Parliament has debated and considered the final report of the Auditor-General and made recommendations, a State Organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

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

360. Non-Compliance with the Law on Development Expenditure

The statement of comparison of budget and actual amounts reflects total final receipts budget of Kshs.8,126,687,855. Review of the statement of comparison of budget and actual amounts for both recurrent and development reflects a final expenditure budget amount of Kshs.8,126,687,855. Included in this amount is the development-related expenditure on the acquisition of assets of Kshs.1,544,858,532 or 19% of the total budget allocation. This is contrary to Section 107(2)(b) of the Public Finance Management Act, 2012 which requires that, over the medium term, a minimum of thirty

percent (30%) of the county government's budget shall be allocated to the development expenditure.

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

361. High Cost of Electricity for Street Lights

Management procured services of various contractors for the installation of electricity-powered street lights countywide at a total cost of Kshs.104,000,000. The total electricity bills for the pre-existing street lights paid in the financial year amounted to Kshs.76,744,356, which was charged under different votes under development. Review of bills of quantities for the installation of the street lights showed that Management continued to install electricity-powered panels.

In the circumstances, Management may not be able to pay the high electricity bills in the future as and when they fall due, leading to the disconnection of the street lights.

362. Use of Asbestos for Roofing of the County Rental Houses

The statement of receipts and payments reflects acquisition of non-financial assets balance of Kshs.1,104,785,218 as disclosed in Note 9 of the financial statements, out of which an amount of Kshs.57,872,761 is for the refurbishment of buildings. The audit revealed that the County owns four hundred and ninety-five (495) houses out of which one hundred and twenty-eight (128) have asbestos roofs. The County Management has however not changed the roofing of these houses despite the Government banning the use of asbestos in 2006 due to its carcinogenic effects.

In the circumstances, the health of the public is at a risk due to use of hazardous roofing materials.

363. Irregular Payments to the Council of Governors

The statement of receipts and payments reflects other grants and transfers of Kshs.741,383,564 as disclosed in Note 7 to the financial statements, which includes other capital grants and transfers of Kshs.700,120,247. An amount of Kshs.8,000,000 was paid to the Council of Governors during the year under review. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

364. Motor Vehicle Assessment Reports for Insurance

The statement of receipts and payments reflects an amount of Kshs.1,183,945,384 in respect of use of goods and services which includes insurance cost of Kshs.235,695,753 as disclosed in Note 4 to the financial statements. The insurance amount includes a payment of Kshs.39,729,202 made for comprehensive insurance cover for County Executive vehicles. However, the motor vehicle assessment/valuation reports of the insured motor vehicles, and logbooks were not

provided for review. Further, Management insured motor vehicles that had stalled for more than one year.

In the circumstances, the public may not have received value for money on the insurance cost for the grounded vehicles.

365. Debt Management Statement Timelines

The County Medium Term Debt Statement dated February, 2023 details the County's debt management strategy for the Medium-Term Expenditure Framework for the period 2023/24-2025/26. However, the total stock of debt indicated in the statement is as at 30 June, 2022, while the Public Finance Management Act of 2012 states that the balances should be as at the date of the statement (February, 2023).

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

366. Performance of County Budget and Economic Forum

Review of the County Executive performance revealed that Nyeri County Budget and Economic Forum (CBEF) was constituted as per the law. However, the Committees were not actively involved in matters relating to budgeting and financial management. This was due to failure to hold meetings as stipulated under Regulation 209 (2) of Public Finance Management (County Governments) Regulations, 2015 which states that the forum shall meet at least twice in a year and the Governor shall decide the time and agenda for meeting of the forum in consultation with other members of the forum.

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

367. Lack of Approved Building Plans

Management through the Department of Health, Education, Office of the County Secretary and Agriculture engaged various contractors for construction works. However, it was noted that the projects have been ongoing without approved Bills of quantities, and structural and architectural plans (designs). No evidence was provided to prove that a feasibility study was carried out on the impact of the projects to the society and environment. In addition, no evidence was provided to show that construction was registered with NEMA and approved by the National Construction Authority contrary to Section 17 of the National Construction Authority Regulations, 2014. In addition, occupation licenses were not granted to guarantee the safety of the buildings.

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

368. Idle Medical Equipment at Narumoru Level 4 Hospital

The Department of Health Services furnished two surgery theatres with air conditioning at a contract cost of Kshs.9,794,676. However, a physical verification carried out in the Month of September, 2024 revealed that the air conditioning and equipping of the two surgery theatres was complete but not in use.

In the circumstances, there was no value for money on the idle surgery theatres.

369. Failure to Submit Financial Statements for Donor Funded Projects

The County Executive of Nyeri had two (2) ongoing donor funded projects whose financial statements have not been submitted for audit as required by the Public Finance Management Act, 2012 and Public Audit Act, 2015. These donor funded projects are Nyeri County National Agricultural Value Chain Development Project (NAVCDP) and The Second Kenya Informal Settlements Improvement Project (KISIP).

In the circumstances, Management was in breach of law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

370. Failure to Maintain an Updated Fixed Assets Register

The assets register has not been maintained following previous years audit committee recommendations. Management is relying on an outdated register that cannot be verified. Further, ownership documents of most of the assets were not provided for audit.

This is contrary to Section 149 (2) (o) of the Public Finance Management Act, 2012 that states that an accounting officer shall, in respect of the entity ensure that respective county government entity has adequate systems to control and account for its assets.'

In the circumstances, existence of effective assets management measures could not be confirmed.

371. Failure to Implement Risk Management Policy

Examination of records indicated that although Management has an approved Risk Management Policy, it has not been implemented to the extent that a Risk Register has not been developed as stipulated in the policy among other provisions. The Risk Register was to assist the Management to identify risk, their severity and indicate actions that are being taken to manage or mitigate them.

In the circumstances, failure to have a structured approach of identifying and managing risks, makes the County more susceptible to financial losses due to unanticipated events such as fraud, mismanagement, or unforeseen occurrences.

COUNTY EXECUTIVE OF KIRINYAGA – NO.20

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

372. Variances Between Financial Statements Balances and Integrated Financial Management Information System (IFMIS) Report

Comparison between the financial statements and IFMIS generated balances reflects variances in various account balances as detailed below;

Description	Amount as per Financial Statements (Kshs.)	Amount as per IFMIS Report (Kshs.)	Variance (Kshs.)
Compensation of Employees	2,613,372,430	2,606,797,796	6,574,634
Use of Goods and Services	1,222,387,241	1,156,814,919	65,572,322
Acquisition of Assets	798,320,000	817,617,322	(19,297,322)
Other Payments	109,110,255	173,686,255	(64,576,000)

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

373. Irregularities in the Use of Goods and Services

The statement of receipts and payments reflects an amount of Kshs.2,613,372,430 in respect of use of goods and services as disclosed in Note 4 to the financial statements. Review of payment vouchers and related documents revealed the following anomalies;

373.1 Irregular Payment of Revenue Collector's Allowances

Included is an amount of Kshs.61,192,117 in respect of domestic travel and subsistence allowance which further includes allowances amounting to Kshs.4,301,100 paid to revenue officers at various rates for breakfast, working during weekends, working in non-official working hours and taxi services payments. However, there was no approved policy to guide on the basis of rate of payment.

373.2 Unsupported Training Expenses

Included is an amount of Kshs.25,611,474 in respect of training expenses which further includes an amount of Kshs.3,778,000 which had the following anomalies:

- (i) Facilitation request memo done after the interviews were conducted amounting to Kshs.661,000.
- (ii) List of participants not provided amounting to Kshs.600,000.
- (iii) Evidence of work done not provided amounting to Kshs.450,000.
- (iv) List of participants not provided amounting to Kshs.120,000.

- (v) Evidence of fifty (50) participants not provided amounting to Kshs.750,000.
- (vi) Evidence of participants and facilitators not provided amounting to Kshs.657,000.
- (vii) Expected or results report not provided amounting to Kshs.540,000.

In the circumstances, value for money and regularity of allowances amounting to Kshs.4,301,100 and training expenses amounting to Kshs.3,778,000 could not be confirmed.

374. Lack of Age Analysis for Accounts Payables

Note 20.1 under other important disclosures reflects a balance of Kshs.1,229,536,760 in respect of pending accounts payables as disclosed in Annex 2 to the financial statements. Included in the balance are additions for the financial year amounting to Kshs.587,410,045 due to suppliers for goods, works and services translating to an increase of 48% for the year. However, the pending accounts payables were not supported with an aging analysis. Further, the pending bill status report at the time of the audit was not provided. Delays in payment of bills may lead to extra charges of interest and penalties levied by suppliers.

In the circumstances, the existence, accuracy and completeness of the pending bill balance of Kshs.1,229,536,760 could not be confirmed.

375. Non-Disclosure of Bank Balances

The statement of assets and liabilities reflects a balance of Kshs.136,814,671 in respect of the bank balance as disclosed in Note 13A to the financial statements. However, the balance excludes an amount of Kshs.62,500,000 held at a Commercial Bank. Further, the authority to open the commercial bank account was not provided for audit.

In addition, an amount of Kshs.134,432,040 on account of FLOCCA was transferred from the County Revenue Fund to the County Executive. However, only a balance of Kshs.133,689,625 was reflected in the financial statements leaving an unexplained balance of Kshs.742,415. Similarly, the DANIDA funding amount of Kshs.15,402,000 was transferred to the County Executive from the County Revenue Fund. However, only a balance of Kshs.15,477,000 was reflected in the financial statements of the County Executive leaving an unexplained variance of Kshs.75,000.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.136,814,670 could not be confirmed.

Other Matter

376. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

377. Irregularities in Human Resource Management Practices

377.1 Non-Adherence to Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects an amount of Kshs.2,613,372,430 in respect of compensation of employees as disclosed in Note 3 to the financial statements, which translates to 49% of the County Executive's total receipts amount of Kshs.5,356,680,031. This was contrary to Regulation 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's total revenue.

377.2 Non-Compliance with One-Third of Basic Salary Rule

Review of payroll records revealed that two hundred and forty-nine (249) employees with basic pay amounting to Kshs.11,261,061 earned less than a third of basic salary contrary to Section 19(3) of the Employment Act, 2007 which stipulates that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

377.3 Irregular Engagement of Casual Workers

During the year under review, the County Executive engaged casual workers for a period of three months renewable as per a sample of contract letters provided. However, their appointment letters, the list of all casuals engaged and their personal records were not provided for audit. Further, the payment to the casuals was made to the heads of departments monthly through payment vouchers. It was therefore not possible to confirm the number of casual workers engaged and their approved rates of payment.

This was contrary to Section 66 to 68 of County Governments Act, 2012 which requires authority from the Public Service Board to hire casuals, and Section 9(1)(a) of Employment Act, 2007 which states that a contract of service for a period or a number of working days which amount in the aggregate to the equivalent, of three months or more; shall be in writing.

377.4 Non-Compliance With National Cohesion and Integration Act, 2008

Review of human resource records revealed that as at 30 June, 2024 the County Executive had two thousand three hundred and fifty-seven (2,357) members of staff, out of which two thousand two hundred and sixty-seven (2,267) or 92% of the members of staff are from the dominant ethnic community in the County. This was contrary to provisions of Section 7 (2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment shall have more than two-thirds of its staff from the same ethnic community.

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

378. Ineffective Management of Contracts

378.1 Construction of Three Storey Medical Complex in Kianyaga Sub-County Hospital

Review of the implementation of the construction contract during the year revealed the following anomalies:

- i) The contract for the construction of a three (3) storey medical complex at Kianyaga Sub County Hospital was awarded to local contractor at a sum of Kshs.288,867,930 with a project commencement date of 12 October, 2021 and a completion date of 28 August, 2023, with a contract period of ninety-eight (98) weeks. Further, the contract was extended for sixty-one (61) weeks from 29 August, 2023 to 29 November, 2024. As at the time of audit in the month of September, 2024, payments amounting to Kshs.216,723,995 had been made, translating to 75% of the contract sum. However, according to the implementation status report the completion status was at 70% implying that the project was behind schedule and payment may have been made for works not executed.
- ii) In addition, the contractor vide letter dated 24 April, 2024 wrote to the project implementation committee on the stoppage of works due to non-payment. The Management attributed the nonpayment to underfunding of the approved budget.
- iii) Similarly, on 14 August, 2023, subcontracts valued at Kshs.137,508,864 were awarded to the contractor for the main works through direct procurement as detailed below;

	Description/Activity of Project	Contract Value (Kshs.)
1	Proposed upgrading of Kianyaga Sub-County Hospital (CCTV and access control)	17,300,000
2	Proposed upgrading of Kianyaga Sub-County hospital (generator installation works)	29,801,005
3	Installation of medical gases system at Kianyaga Sub-County Hospital	34,772,570
4	Installation of I.P.P.B.X Telephone instruments & structured cabling works at Kianyaga Sub-county hospital	19,139,729
5	Installation of solar water heating system Kianyaga Sub-County hospital (CCTV & access control)	36,495,560
		137,508,864

There was no evidence of negotiation with the Supplier as required by Regulation 90(1)(d) of the Public Procurement and Asset Disposal Regulations, 2020. At the time of audit, in September 2024 the contracts had not been implemented.

378.2 Construction of Three-Storey Medical Complex at Kimbimbi Sub County Hospital

Review of the contract for construction of a three-storey medical complex at Kimbimbi Sub County Hospital revealed the following anomalies:

- i) A local contractor was awarded the construction of a three- storey medical complex at Kimbimbi Sub County Hospital at contract sum of Kshs.288,867,930 with project commencement date of 12 October, 2021 and completion date of 28 August, 2023, with a contract period of ninety-eight (98) weeks. The contract was extended for sixty-one (61) weeks from 29 August, 2023 to 29 November, 2024. As at the time of audit, payments amounting to Kshs.202,050,708 had been made translating to 70% of the contract sum. However, according to the implementation status report the completion status was at 70% implying that the project is behind schedule and payment may have made for works not executed.
- ii) Further, the contractor vide letter dated 24 April, 2024 wrote to the project implementation committee on the stoppage of works due to non-payment. The Management attributed the nonpayment to underfunding of the approved budget.
- iii) In addition, procurement contracts for the subcontracts estimated at Kshs.137,508,864 were awarded to the contractor on 14 August, 2023 through direct procurement as detailed below:

	Description/Activity of Project	Contract Value (Kshs.)
1	Proposed upgrading of Kimbimbi Sub-County Hospital (CCTV and access control)	17,300,000
2	Installation of solar water heating system Kimbimbi Sub-County hospital (CCTV and access control)	36,495,560
3	Installation of medical gases system at Kimbimbi Sub-County hospital	34,772,570
4	Installation of I.P.P.B.X Telephone instruments & structured cabling works at Kimbimbi Sub-County Hospital	19,139,729
5	Installation of solar water heating system Kimbimbi Sub-County Hospital (CCTV and access control)	29,801,005
		137,508,864

At the time of audit, September, 2024 the above works had not been implemented.

378.3 Incomplete Ndaba Dispensary at Kagai Ward

The contract for the construction of the Ndaba Dispensary was awarded to a contractor at a contract sum of Kshs.12,837,700 with project start date of 22 May, 2021 and completion date on 15 March, 2022. Payments amounting to Kshs.7,585,032 had been made as at the time of audit in the month of September, 2024. During physical verification of the project in the month of September, 2024 it was noted the contract period had expired and physical works were at 67% completion level.

In the circumstances, the value for money on the amount already spent on the three (3) projects could not be confirmed.

379. Incomplete Hospital Management Information System

During the year, tender was awarded to a service provider for the design, development, installation and commissioning of Integrated Hospital Management Information System at a cost of Kshs.27,203,450 as per project delivery milestone shown below:

No.	Project Delivery Milestone	Percentage of Contract Amount
1	Inception report	10% inclusive of VAT
2	software delivery (Software media Kits, Vannila version of the HMIS)	30% inclusive of VAT
3	User Acceptance Test (UAT) for out-patient modules	20% inclusive of VAT
4	User Acceptance Test (UAT) for in-patient modules	20% inclusive of VAT
5	Go-Live for Out-patient modules	10% inclusive of VAT
6	Go-Live for in-patient modules	10% inclusive of VAT

However, the implementation status provided indicates that only Kerugoya County Referral Hospital is fully automated yet other health facilities such as Kianyaga, Kimbimbi and Sagana Sub-County Hospitals were not automated. No reason has been given for not automating the other hospitals which had been included in the contract and budgeted for.

In the circumstances, value for money for the design development, installation and commissioning of Integrated Hospital Management Information System amounting to Kshs.27,203,450 may not have been realised.

380. Ineffective Utilization of Public Resources for Legal Expenditure

The County Executive incurred an expenditure of Kshs.66,212,341 on legal cases in the year under review. However, the Management had not established a legal department with qualified staff capable of representing the County on legal matters.

In the circumstances, value for money amounting to Kshs.66,212,341 for legal cases could not be confirmed.

381. Delay in Construction of Fire Station Project

A local contractor was contracted by the Kerugoya-Kutus Municipality for construction of County fire station under Kenya Urban Support Program (KUSP) in the Department of Lands, Housing and Urban Development. The contract sum was an amount of Kshs.50,782,580 with commencement date of 28 September, 2021, completion date of 8 April, 2022 and a contract period of twenty-eight (28) weeks which had expired with no evidence for extension.

Physical verification in the month of September, 2024 revealed the project was at 88% completion level with value of work done amounting to Kshs.44,714,691. However, the four (4) roller shutter doors that act as entrance to the building had not been installed

and the external wall to the premise were left open leading to susceptibility to security risk. Further, three (3) flush doors and four (4) windows had already been damaged and the project had stalled.

In the circumstances, value for money amounting to Kshs.44,714,691 could not be confirmed.

382. Irregularities in the Construction of County Aggregation and Industrial Parks

The proposed construction of the County Aggregation and Industrial Parks (CAIP) was awarded to a local contractor at a contract sum of Kshs.499,988,904. However, the following issues were noted;

382.1 Irregularities in Proposed Construction of County Aggregation and Industrial Parks

The County Executive appropriated a development budget amount of Kshs.275,000,000 under the Department of Trade Cooperatives and Enterprise Development for the development of Sagana Agro-industrial Park (Export Processing Zone (EPZ) and CAIPs), feasibility studies, branding, marketing and other infrastructures by the County Executive. The amount included Kshs.250,000,000 for the County Executive's contribution funds for County Aggregation and Industrial Parks and Kshs.25,000,000 for site preparation and food control works for the CAIPs Project. However, the amount of Kshs.250,000,000 was not fully transferred to the Special Purpose Account (SPA) despite the disbursement approval of funds by the controller of the budget.

Further, an amount of Kshs.62,500,000 was irregularly deposited on 27 May, 2024 to a commercial bank account opened at a local bank instead of operating the activities of the project on the designated special purpose account at Central Bank of Kenya contrary to Regulation 82(1) of the Public Finance Management (County Governments) Regulations, 2015.

In addition, physical audit inspection in the month of September, 2024 and according to the project progress report dated 17 September, 2024, the overall project completion status of work physically completed was at 30%. The completion status was behind schedule since the initial contract period had elapsed by forty-five (45) weeks against the initial approved contract period of twenty-eight (28) weeks translating to 161% of the lapsed initial contract period.

The contract period was extended by thirty-nine (39) weeks from the initial completion date of 26 March, 2024 to 24 December, 2024. According to the interim certificate No. 3 dated 21 June, 2024, the total work certified was Kshs.116,578,660 representing 23.3% of contract sums.

382.2 Irregularities in the Tender for Extra Works for Proposed Construction of County Aggregation and Industrial Parks

Review of the procurement process and implementation of extra works for the proposed construction of the County Aggregation and Industrial Parks revealed that a request for variation was done by the contractor on 3 August, 2023 citing abnormalities

in depth ranges of excavations from 1.5m to maximum of 3m. As at the time of the audit in the month of September, 2024, the following issues were observed:

- i) According to Memo dated 8 August, 2023 Ref: CGK/TRPW/DPW/CAIPs/Vol.1(13) from the project manager (Director of Public Works) to the Accounting Officer of Trade reported that no geotechnical survey was carried out before the design of the project.
- ii) Extra works were approved and procured by contracting the main contractor at a contract sum of Kshs.91,868,580 without a budgetary allocation contrary to Regulation 50 of the Public Finance Management (County Governments) Regulations, 2015. Audit of CIT minutes dated 21 May, 2024 noted that the Ministry of Investments, Trade and Industry had not clarified how the additional costs for the extra works were to be financed.
- iii) An amount of Kshs.72,875,362 had been paid as at 30 June, 2024 out of the County's project contribution budget amount of Kshs.250,000,000.

In the circumstances, Management was in breach of the law and value for money for the establishment of County Aggregation and Industrial Parks could not be confirmed.

383. Long Outstanding Pending Bills

Note 20.1 under other important disclosures reflects a pending bills balance of Kshs.1,229,536,760, which includes a long outstanding debt balance of Kshs.827,767,929 which did not form a first charge contrary to Regulation 41(2) 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

384. Lack of Internal Audit Reports

The County Executive approved budget reflects an allocation amount of Kshs.1,718,200 for internal audit function. However, there was no evidence of an internal audit report for the audit assignments carried out during the year under review. Further, no approved internal audit plan was provided for the audit.

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

385. Lack of Valuation Report and Ownership Documents

Annex 6 to the financial statements reflects a balance of Kshs.6,340,569,358 in respect of the summary of non-current assets, out of which a balance of Kshs.53,102,895 was for Kamweti Land whose ownership details were not provided for audit. Further, the title deed and valuation reports were not provided.

In the circumstances, the ownership and existence of non-current assets balance of Kshs.53,102,895 could not be confirmed.

COUNTY EXECUTIVE OF MURANG'A – NO.21

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

386. Variance Between the Statement of Receipts and Payments and Integrated Financial Management Information System (IFMIS) Vote Book

The statement of receipts and payments reflects total payments of Kshs.6,468,547,821. However, comparison of the statement amounts with the Integrated Financial Management Information System (IFMIS) Vote Book report revealed variances as tabulated below:

Expenditure	Financial Statements (Kshs.)	IFMIS Votebook (Kshs.)	Variance (Kshs.)
Compensation of Employees	3,685,639,768	4,019,135,874	(333,496,106)
Use of Goods and Services	1,248,671,814	1,553,108,643	(304,436,829)
Subsidies	4,000,000	4,000,000	-
Transfer to Other Government Entities and Other Grants and Transfers	891,797,929	1,053,437,952	161,640,023
Social Security Benefits	79,592,836	96,832,854	(17,240,018)
Acquisition of Assets	543,415,003	1,059,077,764	(515,662,761)
Other Payments	15,430,471	26,990,000	(11,559,529)

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

387. Unreconciled Pending Bills Records

The financial statements under Note 1 and Note 2 on other important disclosures and Annexes 2 and 3 reflect pending bills balance of Kshs.1,342,502,610 comprising of a pending accounts payable balance of Kshs.412,257,670 and a pending staff payables balance of Kshs.930,244,940. However, available records revealed a balance of Kshs.397,460,619 and Kshs.930,244,940 as pending accounts payables and pending staff payables respectively, totalling Kshs.1,327,705,559 resulting in a variance of Kshs.14,797,051.

Further, Annex 2 and Annex 3 to the financial statements did not disclose detailed analysis of individual pending bills as prescribed by the reporting template issued by the Public Sector Accounting Standards Board.

In addition, the balance includes an amount of Kshs.448,144,408 in respect to pending bills from the previous years dating back to the financial year 2015-2016. Management did not provide an explanation why the accumulated pending bills were not prioritized.

In the circumstances, the existence, accuracy, and completeness of pending bills balance of Kshs.1,342,502,610 could not be confirmed.

388. Unsupported Expenditure on Hospitality, Supplies and Services

The statement of receipts and payments as disclosed in Note 4 to the financial statements reflects an amount of Kshs.1,248,671,814 in respect of use of goods and services. The expenditure includes an amount of Kshs.22,617,007 in respect of hospitality supplies and services out of which payments totalling Kshs.631,884 were made for the provision of catering services and facilitation for the Annual Internal Audit Seminar. However, Management did not provide supporting documents including requisitions, invoices, evidence of travel and attendance register to support the payments.

In the circumstances, the accuracy and completeness of the hospitality expenditure amounting to Kshs.631,884 could not be confirmed.

Emphasis of Matter

389. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects total final receipts budget and actual on comparable basis of Kshs.9,515,657,013 and Kshs.6,783,549,529 respectively, resulting to an under-funding of Kshs.2,732,107,484 or 29% of the budget. However, the statement reflects actual receipts and expenditure of Kshs.6,783,549,529 and Kshs.6,468,547,821 respectively resulting in an under-absorption of Kshs.315,001,708 of actual receipts.

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

My opinion is not modified in respect of this matter.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

390. Irregularities in Compensation of Employees

390.1 Non-Compliance with Approved Staff Establishment

Analysis of the County Executive's approved staff establishment revealed an excess of seventy-seven (77) staff who were not in the approved staff establishment. This was contrary to Paragraph A.13 of the County Public Service Human Resource Manual, 2013 which provides for the responsibilities of the County Public Service Board that includes establishing and abolishing offices in the county public service and facilitating the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties.

390.2 Non-Compliance with National Cohesion and Integration Act, 2008

An analysis of the staff ethnicity revealed that 93% of employees of the County Executive were from the same ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity on the people of Kenya in employment of staff and that no public establishment shall have more than one third of its staff from the same ethnic community. Further, during the year, the County Executive employed thirty-nine (39) staff members. However, analysis of the records provided revealed that thirty-four (34) staff members representing 87.18% of the employees recruited were from the dominant ethnic community. This is contrary to Section 65(1)(e) of the County Governments Act, 2012 which requires that at least 30% of vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community.

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

The County Executive's payroll for the month of June, 2024 revealed that five hundred and seventy-one (571) employees were drawing net salary of less than one third of their basic salary contrary to Section 19(3) of the Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay.

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

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.3,685,639,768 in respect of compensation of employees, which represents fifty-four (54%) percent of the total County Government revenue of Kshs.6,783,549,529. This was contrary to Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the county government's expenditure on wages and benefits for its public officers shall not exceed the thirty-five (35%) percent of the county government's total revenue.

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

391. Failure to Adhere to Fiscal Responsibility Principles in Budget Allocation to the County Assembly

Review of the County Executive's budget revealed that an amount of Kshs.892,709,033 was allocated to Murang'a County Assembly. This allocation was equivalent to 9% of the total County revenue budget for the year amounting to Kshs.10,408,366,046. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which states that the approved expenditures of a county assembly shall not exceed seven percent (7%) of the total revenues of the County Executive or twice the personnel emoluments of that county assembly, whichever is lower.

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

392. Irregularities in Imprest Management

The statement of assets and liabilities as disclosed in Note 14 to the financial statements reflects a balance of Kshs.2,794,575 in respect of outstanding imprest and

advances. The balance represents unsurrendered imprest issued to various officers some dating back to September, 2023. It was not clear why the respective officers did not account for the imprest or why the employer did not institute recovery from the officers. This was contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

Further, Management did not operationalize the imprest management module in the Integrated Financial Management Information System (IFMIS) and hence failed to enforce the use of system in the management of imprest.

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

393. Anomalies in Project Implementation

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects an amount of Kshs.543,415,003 in respect of acquisition of assets. However, the following anomalies were noted:

393.1 Poor Workmanship in the Construction of a Septic Tank

The expenditure includes an amount of Kshs.294,325,169 in respect of construction of civil works which further includes an amount of Kshs.1,886,520 for construction of a 200 persons capacity septic tank at Maragua hospital. However, physical verification in the month of September, 2024 revealed that the newly constructed septic tank was overflowing and the waste was spreading to the surroundings resulting to a health hazard. Further, due to poor workmanship, the top surface of the septic tank had visible openings and was already worn out.

393.2 Project Complete but Not in Use - Mabae Dispensary

The amount for acquisition of assets includes an amount of Kshs.6,518,919 in respect of refurbishment of buildings which further includes an amount of Kshs.1,839,222 used for renovation of Mabae dispensary. However, site visit in the month of September, 2024 revealed that the project was complete but not in use. The renovated building seemed abandoned, and Management did not provide explanation on why the building was not in use after spending public funds for renovation.

In the circumstances, value for money on the expenditure amounting to Kshs.3,725,742 on the two projects could not be confirmed.

394. Failure to Remit Donor Project Balances to the National Programme Account

Records available revealed that as at June, 2024, the County Executive had two (2) bank accounts related to Agricultural Sector Development Support Programme Phase II (ASDSP II) with balances of Kshs.5,569,290 and Kshs.177 respectively. As per a letter dated 24 June, 2024, the bank accounts were supposed to be closed and bank balances transferred to the National Programme Bank account to allow for the implementation of the next phase of the Programme. However, Management did not provide evidence of the transfer of the balances to the National Programme Bank account and closure of the said accounts. This was contrary to Circular

JAS/PROJECTS/3/VOL.VII/071 from Joint Agricultural Sector Consultation and Cooperation Mechanism dated 19 June, 2024 which required that all ASDSP II bank Accounts held by the Counties to be closed immediately and all balances remitted to the National programme accounts for action.

In the circumstances, Management was in breach of the Project management guidelines.

395. Failure to Implement Audit Recommendations

Management did not provide any evidence in form of reports on the progress made in implementing the prior year auditor's management letter recommendations and recommendations of oversight committees of the Senate and the County Assembly on the Report of the Auditor-General. Further, there were no explanations in writing to Parliament on why the report has not been acted upon contrary to Section (31)(1) and (53)(1) of Public Audit Act, 2015 which require the accounting officer to take relevant steps in implementing the audit recommendations.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

396. Lack of Asset Disposal Plan

Review of asset records revealed that the County Executive had various grounded and unserviceable vehicles and motorcycles which are yet to be disposed of. Further, the list of grounded vehicles and motorcycles did not contain critical information about the assets including vehicle registration number, chassis number, type and make of the motor vehicle and location of the assets. In addition, Management did not provide an approved Assets Disposal Plan contrary to Regulation 176 (1) of the Public Procurement and Asset Disposal Regulations, 2020

In the circumstances, the existence of adequate controls on the management of assets could not be confirmed.

COUNTY EXECUTIVE OF KIAMBU – NO.22

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

397. Payment of Salary Outside the Payroll System

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.7,890,419,502. However, a recomputation of employees' costs from the Integrated Payroll Personnel Database (IPPD) revealed staff costs amounted to Kshs.7,876,820,240 resulting to an unreconciled variance of Kshs.13,599,262. Although the amount related to personal allowances paid as part of the salary for drivers, no explanation was provided why the payment was made outside the payroll.

Further, the County Executive was using both the Integrated Payroll and Personnel Database (IPPD) and a manual payroll system. Analysis of the payroll for the six-month period between July, 2023 to December, 2023 revealed that employees' costs amounting to Kshs.65,254,713 was processed manually. Further, the manual payroll revealed that during the six (6) months earnings, the deductions were not itemized per individual allowances or respective deductions.

In the circumstances, the accuracy and completeness of compensation of employees amounting to Kshs.7,890,419,502 could not be confirmed.

398. Irregular Payments of Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 4 of the financial statements reflects use of goods and services expenditure totalling Kshs.2,426,202,984. The expenditure further includes an amount of Kshs.96,116,280 relating to domestic travel and subsistence allowances. However, review of records revealed the following anomalies:

No	Item	Amount (Kshs)	Remarks
1	Meal Allowances	2,248,568	Allowances paid for normal duties
2	Extraneous Allowances	4,287,700	Allowances paid outside payroll and not taxed. Rates of payments were not justified.
3	Allowances to MCAs	6,712,000	Expenditure is covered by County Executive although County Assembly has an independent budget.
4	Facilitation during revenue Collection enhancement	1,699,060	The expenditure can be avoided as the staff could have utilized facilities at the Sub-county offices.

In the circumstances, the accuracy, completeness and regularity of the expenditure amounting to Kshs.2,426,202,984 in respect of the use of goods and services could not be confirmed.

399. Misclassification of Expenditure - Acquisition of Assets

The statement of receipts and payments and Note 9 to the financial statements reflect an amount of Kshs.3,295,484,480 under the acquisition of assets. However, the expenditure includes an amount of Kshs.204,987,634 which relates to the purchase of specialized plants, equipment and machinery which further includes an amount of Kshs.6,246,246 paid as extraneous allowances to various members of staff attached in the Executive Office leading to an overstatement of the acquisition of assets while understating the corresponding allowances by a similar margin. In addition, the payments were not made through the payroll system and thus not subjected to taxation at the applicable rates as per the Income Tax Act Cap 470 of the laws of Kenya.

Further, the balance includes an amount of Kshs.12,875,728 which relates to the purchase of household furniture and institutional equipment. Review of the records provided revealed that this amount related to the supply and delivery of litter bins and skip bins material through the Department for Water, Environment, Energy and Natural Resources. However, the items were not in the budget and procurement plan.

In the circumstances, the accuracy, classification and regularity of the expenditure totalling Kshs.19,121,974 could not be confirmed.

400. Irregular Procurement of Supply and Delivery of Pharmaceuticals and Drugs

Review of records showed that payments were made for the supply and delivery of pharmaceuticals amounting to Kshs.51,704,394 by Kenya Medical Supplies Authority (KEMSA). However, the tender documents were not issued to the supplier. In addition, user requisition, advertisement, confirmation of the availability of funds, evaluation, professional opinion, negotiation or market survey and contract for supply of the pharmaceuticals were not done.

Further, the Authority was issued with Local Purchase Order for an amount of Kshs.42,071,365 but supplied medical drugs valued at Kshs.40,664,764 resulting to an unexplained variance of unsupplied drugs worth Kshs.1,406,601. The requisition of the drugs was not supported by the end user requests, tender document and negation, vote book confirmation of the availability of funds, professional opinion, Evaluation Committee decision on direct procurement. The procurement plan indicated that drugs were to be procured through request for quotations, however, Management applied direct procurement. Inspection report for the drugs supplied to the facilities were not provided.

In the circumstances, the regularity of the expenditure totalling Kshs.93,775,759 could not be confirmed.

401. Irregular Payment of Pending Bill

The financial statements under other important disclosures in Note 20 to the financial statements discloses pending accounts payables balance of Kshs.4,613,807,818, pending staff payables balance of Kshs.25,138,460 and other pending payables

balance of Kshs.1,981,565,951 all totalling Kshs.6,620,512,229. However, the customer refundable deposits balance of Kshs.1,379,179 reported in Thika Level 5 Hospital was not disclosed as payables in the County Executive's financial statements as outstanding payables.

Further, the Department of Roads paid an amount of Kshs.71,816,015 as pending bills. Included in the bills is an amount of Kshs.24,887,028 which was paid without verification or audited to confirm their authenticity. Further, the Department had more pending bills that had been audited and recommended for payment but were not paid.

In the circumstances, the accuracy and completeness of the account's payables balance of Kshs.6,620,512,229 could not be confirmed.

Emphasis of Matter

402. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis amount of Kshs.21,458,869,952 and Kshs.17,709,147,271 respectively, resulting in under-funding of Kshs.3,749,722,681 or 17% of the budget. However, the County Executive spent an amount of Kshs.17,557,270,125 against actual receipts of Kshs.17,709,147,271 resulting in under-utilization of Kshs.151,877,146 of the actual receipts.

Further, the statement of receipts and payments reflects transfers from the County Revenue Fund in form of Exchequer releases amounting to Kshs.16,439,984,407. Review of revenue records provided for the audit revealed that funds amounting to Kshs.2,139,821,678 or 19% of the Exchequer releases were received during the month of June, 2024, from The National Treasury. Late disbursement of Exchequer releases by The National Treasury negatively impacted service delivery to the citizens.

The under-funding and late disbursement of the Exchequer are indications that all activities and projects in the Annual Workplan were not implemented by the County Executive which may have negatively impacted on the delivery of services to the public.

403. High Rate of Contingent Liabilities

Annex 8 to the financial statements reflects contingent liabilities relating to Court cases against the County Executive amounting to Kshs.517,322,175. Unless the contingent liability is prudently addressed, there is a likelihood of unforeseen risks against the County Executive. Management has not demonstrated its preparation in mitigating the risks should any of the liabilities crystallizes.

My opinion is not modified in respect of these matters.

Other Matter

404. Unresolved Prior Year Audit Issues

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

Public Resources. Appendix II on progress on follow up of the prior year's Auditor's recommendations indicates that the issues are under discussion in the County Assembly and therefore, the matters remain unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

405. Irregularities in Human Resource Management

405.1 Non-Compliance with Fiscal Responsibility Principles

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees amount of Kshs.7,890,419,502 which represents approximately 48% of the total revenue of Kshs.16,439,984,407. This was thereby contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the expenditure set should not exceed thirty-five (35) percent of the County Government revenue.

405.2 Late Remittance of Statutory Deductions

Analysis of the payroll records revealed that Management had deducted staff NSSF and NHIF statutory which were remitted to the respective bodies late. This was contrary to the provisions of the NHIF Act, 2012 and NSSF Act, 2013 as summarized in the table below;

National Hospital Insurance Fund (NHIF)		
Month	Pay Date	Amount (Kshs)
July, 2023	10 August, 2023	8,157,450
December, 2023	31 January, 2024	8,055,700
April, 2024	13 May, 2024	7,547,350
National Social Security Fund (NSSF)		
Month		
July,2023	11 August, 2023	10,865,140
December, 2023	31 January, 2024	8,702,520
April, 2024	15 May, 2024	8,513,880

Late remittance of NSSF and NHIF deduction is contrary to Section 20(1A) of the National Social Security Fund (NSSF) Act, 2013 and Section 18(1) of the National Hospital Insurance Fund (NHIF) Act, 2012, respectively. The County Executive may be liable to penalties and interests due to late payment of statutory deductions.

405.3 Unapproved Payroll Data

Management maintains both Integrated Personnel and Payroll Database (IPPD) and manual payroll for employees not yet included in the data base. However, payroll data was not reviewed and approved by the Accounting Officers for the various Departments before salary payments were processed. This was contrary to Section 148(1) of the Public Finance Management Act, 2012 which states that the County

Executive Committee Member for Finance shall, except as otherwise provided by law, in writing designate Accounting Officers to be responsible for managing the finances of the County Government entities as is specified in the designation.

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

Review of payroll records revealed that the County Executive had six thousand, one hundred and forty-seven (6,147) members of staff as at 30 June, 2024. However, five thousand, five hundred and thirty-six (5,536) officers representing 85% of the total staff were from one community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one-third of its staff from the same ethnic community.

405.5 Non-Compliance with the One-Third Basic Salary Rule

Review of the payroll records revealed that one thousand, five hundred and seventy-five (1,575) employees got a net salary that was less than one-third (1/3) of their basic pay during the year thus over-committing their salary. This was contrary to the provisions of Part C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which stipulates that public officer shall not over-commit their salaries.

405.6 Failure to Follow Career Progression Guidelines

Review of the payroll records showed that twenty-nine (29) staff members had skipped more than one job group within a year. According to the Human Resource Policy, staff can only progress to the next job group after serving a minimum of three years in a given job group. This was contrary to Section 120(3) of the Public Finance Management (County Governments) Regulations, 2015 which states that at least once every month, the accounting officer shall certify the correctness of the payroll.

405.7 Employment of Revenue Officers on Casual Basis

The Revenue Unit of the County Executive had a total of six hundred and seventy-seven (677) staff members. It was observed that there were two hundred and forty-three (243) revenue officers who were employed on a casual basis. However, their work was continuous amounting to the equivalent of at least one month which contravenes the Employment Act, 2007, which defines a “casual employee” as an individual whose engagement terms stipulate daily payment and who is not engaged for more than twenty-four hours at a time.

This was contrary to Section 9(1)(a) of the Employment Act, 2007 which states that a contract of service for a period or a number of working days which amounts in the aggregate to the equivalent, of three months or more; shall be in writing.

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

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

406.1 Procurement of Medical Waste Transportation Truck

Management purchased a medical waste transportation truck using framework contracting at a cost of Kshs.6,210,000. However, Management did not justify the use of the framework contracting method to procure as the medical waste transportation truck is definable and determinable at the beginning of the procurement process.

406.2 Payment for Supply and Delivery of General Office Stationery

Management awarded a local company a contract for the supply and delivery of general office stationery for the Department for Roads, Transport, Public Works and Utilities for an amount of Kshs.1,558,066. The supplier was notified of the award of the tender on 23 April, 2024 and the contract was signed six (6) days after the award on 29 April, 2024 which was before fourteen days required by Section 135 of the Public Procurement and Asset Disposal Act, 2015.

Further, review of the procurement records and payment voucher revealed that the contract was awarded to the lowest bidder, despite their quoted price being higher than the requisition quoted price of Kshs.1,489,066 hence overpricing the contract by Kshs.69,000.

406.3 Procurement of Repair and Maintenance of Motor Vehicles

Management awarded a contract to a local company to carry out service and repairs of two motor vehicles at a total cost of Kshs.1,272,108. However, review of supporting documents revealed that the pre-inspection reports attached for both vehicles were done by the County Transport Manager. However, although Management provided a post-inspection report, the report did not communicate the individual works done and assessments of whether the repairs done met the expected standards. In the absence of prior proper authorizations and lack of a detailed post-inspection report, value for money from the expenditure may not have been realized.

406.4 Delay in the Construction of a Perimeter Wall at Ruiru Hospital

A local company was contracted to construct a perimeter wall at Ruiru Hospital, at a contract sum of Kshs.12,183,714. However, it was noted that the contractor was notified of the award of the contract on 7 December, 2023. The contract was signed on the same date contrary to Section 135(3) of the Public Procurement and Assets Disposal Act, 2015 which states that the written contract shall be entered into within the period specified in the notification but not before fourteen days elapsed following the notification provided that a contract shall be signed within the tender validity period.

Further, the timeline for completion of works was sixty (60) days from the date when Management hands over the site for works which should not exceed fourteen (14) days. However, records provided for audit revealed that the project implementation team held their second meeting on 28 May, 2024 and recommended the final payment to the contractor. This was one hundred and sixty (160) days later indicating a delay in the completion of the Project. Management did not also recover the liquidated damages while the Works Completion Certificate or Inspection and Acceptance Committee report of the works was not provided.

406.5 Irregular Procurement of School Feeding Programme

Management entered into a contract with a local supplier for the supply and delivery of long-life milk for an amount of Kshs.20,765,472. From the Professional Opinion issued, one local contractor was not responsive at the preliminary stage due to a lack of a valid certified copy of the food hygiene license but was however awarded the tender for the supply of uji at a contract price of Kshs.25,101,120. This was contrary to Article 227(1) of the Constitution of Kenya, 2010 which states that a public entity shall enter into a contract shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

Further, the County Executive entered into a contract with a supplier for the supply and delivery of Ujimix for Kshs.25,101,120. From the professional opinion issued, one local supplier was not responsive at the preliminary stage due to lack of a valid KEBS certificate. However, the supplier was awarded the supply of fortified uji flour at a cost of Kshs.5,723,412 despite being not responsive at the preliminary stage.

406.6 Award of Contract for Repairs and Servicing of Motor Vehicles

A local garage was awarded a contract at a cost of Kshs.1,825,736 for the service and repair of two (2) motor vehicles through a request for quotations. Examination of supporting documents revealed that the tender was advertised on 29 January, 2024 with a closing date of 5 February, 2024. One of the preliminary evaluation criteria for the three suppliers was a copy of a valid tax compliance certificate. However, the attached copy for the garage from the company which was awarded the tender was dated 09 April, 2024 which was three (3) months after the closing date. Management did not support or explain how the supplier passed the preliminary evaluation stage with an invalid tax compliance certificate. Further, the two (2) vehicles that went through service and repairs were not included in the consolidated asset register as part of the vehicles owned by the County Executive.

406.7 Inconsistencies in Repairs and Servicing of Motor Vehicles

Management awarded a contract to a local company for the provision of service and repair of various County Executive's motor vehicles at a cost of Kshs.2,497,941. Included in the expenditure was an amount of Kshs.1,811,651 incurred to carry out repairs to one vehicle. However, the following anomalies were noted:

- i) The pre-inspection report indicated that the gearbox was okay. However, the bill of quantities provided had the gearbox replaced for an amount of Kshs.685,000.
- ii) Other minor repairs were undertaken that were not part of the approved pre-inspection report which made it difficult to verify the whole amount paid for the repairs and service undertaken for the vehicle.
- iii) Another vehicle that was recorded as having been repaired and serviced could not be traced as part of the vehicles from the County Executive consolidated asset register. It was not possible to verify if the repair cost was related to the County Executive's assets.

Further, the County Executive awarded the same company a contract for servicing and repairing various motor vehicles in the Finance and Economic Planning

Department totalling Kshs1,319,689. The payment was made on 07 June, 2024. However, the following anomalies were observed:

- (i) There were two notifications of award with two different dates provided. The notification of award to the company was issued on 28 April, 2024. However, the company provided the letter of acceptance on 3 April, 2024. It was not clear why the supplier accepted the contract even before the notification to award.
- (ii) The contract was signed on 13 April, 2024 and the LPO was issued on the same date however the company had issued an invoice on 13 March, 2024 which was before the award was done and the LPO issued.
- (iii) The payment voucher was not supported by the opening tender register while the post-inspection report provided did not have details of the works which were done.

406.8 Irregularities in Partitioning of Boardroom

The County Executive awarded a local firm a contract for the rehabilitation and repartitioning of existing offices at a cost of Kshs.4,984,600. Included in the payment of Kshs.681,000 for the partition of an existing boardroom to two separate boardrooms. However, an amount of Kshs.600,000 was paid for partitioning but an inspection of works done revealed that the contractor used aluminium frames with 4mm glass panels instead of a 9mm thick MDF solid panel set out in the Bills of Quantity.

and an amount of Kshs.69,000 was paid for aluminium doors with 2 lever mortise locks, yet, the contractor had installed a 1-lever mortise lock.

Further, an amount of Kshs.12,000 was paid for the installation of a fixed sun control film frosted coloured 2mm thick window panes. However, it was not possible to confirm the status since the rooms had windows that had been in existence.

406.9 Irregular Use of Quotation in Procurement of Goods and Services

Review of records revealed that during the year under review, the County Executive floated quotations; for the supply, installation and commissioning of streetlights along Gituamba-Gwa Karechu road in Uthiru ward at a cost of Kshs.3,996,780, supply, installation and commission of 25 No of streetlights in Tingángá ward for Kshs.3,999,680, supply, installation and commission of streetlights in Karai Ward for Kshs.3,999,674 and the rehabilitation of Gwa Kimani - Disciple Road in Ngewa ward at a cost of Kshs.3,900,449. This was contrary to the Second schedule of the Public Procurement and Assets Disposal Regulations, 2020 which sets the maximum level of expenditure for a request for quotation method as Kshs.3,000,000. Further, the report from the Evaluation Ad-hoc Committee, the professional opinion and the notification of award were not provided for audit.

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

407. Irregular Supply of Gravel to Burugu - Kinale Level 3 Hospital

Management awarded a local company a tender for the supply of gravel to Burugu - Kinale Level 3 Hospital, crusher slums and maternity access road in Lari, Kirenga ward at a cost of Kshs.5,247,120. From the professional opinion issued, it was noted that the number of bids received was two (2) and the quoted amount from the unsuccessful bidder was not made known to the Accounting Officer.

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

408. Irregular Award of Contracts

Management paid an amount of Kshs.18,596,141 for motor vehicle routine maintenance. It was however noted from review of sampled payment vouchers amounting to Kshs.12,860,147 that one supplier was awarded almost 70% of the work although the County Executive had a pre-qualified list of suppliers under the category of provision of motor vehicle garages and suppliers of spare parts for vehicles, plants and machinery.

Further, the same company was awarded contracts totalling Kshs.4,434,638 by the Health Services Department. Review of the documents provided revealed that in all instances, only three (3) bidders were requested to submit quotations. However, the awarded supplier consistently emerged as the lowest bidder and therefore the winner which indicates a lack of bidder rotation in a request for quotation.

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

409. Inconsistencies in Procurement Documents

The County Executive floated quotations to registered suppliers for the repair of a vehicle. Examination of documents provided for audit revealed that three suppliers submitted their bids. Payment of Kshs.546,690 was made to the winning bidder and the following inconsistencies were noted. From the evaluation report, the second bidder did not proceed to the financial evaluation but was offered a notification of intention to award. The third bidder was also offered a notification of intention to award yet the evaluation report detailed that the quotation be issued to the first bidder and the notifications of the intention to award were dated the 23 February, 2023. This is a year before the bid documents were opened or the professional opinion given.

Further, the winning bidder accepted the notification of award on 9 February, 2024. This was before the invitation of bids which was done on the 13 February, 2024. There was no job card provided for the repair works performed and the post-inspection report provided did not include the works done against the defects shown in the pre-inspection report. In light of the highlighted issues, the professional opinion was misleading to the Accounting Officer contrary to Regulation 134(3) of the Public Procurement and Asset Disposal Regulations, 2020.

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

410. Irregular Variation of Contract

A contractor was awarded a contract for the construction of drainage channels at Joseph the Worker Catholic Church Mwioko and the construction of Mwenjera slopes at Mwenjera Kambi ya Ihii shopping centre road at a contract sum of Kshs.8,326,970. The contract was varied upwards by an amount of Kshs.6,445,884 within twelve months of signing the contract which resulted in an increment of the contract price by more than twenty-five percent (25%) and such variations were not tendered for separately as required by the law.

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

411. Irregular Procurement in the Health Department

411.1 Award of Contract for the Serialization of Oxygen Cylinders

A local company was awarded a contract for the serialization of oxygen cylinders through a request for quotations at a contract price of Kshs.1,152,000. However, the tender opening committee members proceeded to tender evaluation contrary to Section 78(1) of the Public Procurement and Asset Disposal Act, 2015, which provides that at least one of the members shall not be directly involved in the processing or evaluation of the tenders. Further, the evaluation minutes was signed by a member who was not part of the Committee and the contract document was not provided for audit.

411.2 Construction of Level III Health Facility in Gitothua Ward

The County Executive entered into a contract with a local contractor for the construction of a Level 3 Health facility in Gitothua Ward at a contract sum of Kshs.46,154,350. However, the following irregularities were noted;

- (i) There was no evidence that the County Executive handed over the site to the contractor after 14 days of signing the contract contrary to Section 4.2 of the contract.
- (ii) Review of the project procurement file revealed that Management did not provide the engineer's architectural design for the health facility, the bills of quantities and the engineer's estimate.
- (iii) Review of the acceptance letter dated 9 May, 2023 revealed that Management signed the contract on 8 September, 2023 and no reasons were provided on why it took so long to sign the contract.

There were no payment vouchers and progress reports from the project implementation team provided for audit therefore it was not possible to ascertain the amount paid and work done during the year.

411.3 Construction of Level IV Hospital at Gachororo

Examination of the payment voucher for the first certificate for construction of level IV Hospital at Gachororo whose contract price was Kshs.196,899,815 revealed that an amount of Kshs.37,174,395 was paid to the contractor as per the certificate issued.

Review of the works certified and the Bill of the Quantities revealed that the engineer's certified substructure works amounting to Kshs.35,339,395 while the Bill of Quantities for works certified and paid totalled to Kshs.22,641,795 leading to an unexplained variance of Kshs.12,697,600. Further, review of the minutes of the Contract Implementation Committee of 23 February, 2024 revealed that the Committee approved extra works without the Bill of Quantities quantifying the extra works, Evaluation Committee reviews and Head of Procurement recommendations. In addition, Management paid an amount of Kshs.14,532,600 above the amount quoted in the bill of quantities.

411.4 Irregular Procurement of Refurbishment of Ambulances

The County Executive on 24 October, 2023 awarded a contract to a local company for the refurbishment of Advanced Life Support ambulance cabins, installation and commissioning of appropriate equipment and maintenance- Health Services at a contract sum of Kshs.42,399,630. On 18 April, 2024, the contract was varied upwards by an amount of Kshs.3,720,584 which was five (5) months from the signing of the contract contrary to Section 139(3) of the Public Procurement and Asset Disposal Act, 2015 which gives a period of twelve months.

Further, the contract agreement stipulated that the supplier shall within two weeks from the date of receipt of the LPO deliver the total number of specified ambulances. The LPO was issued on 24 October, 2023, and the supplier invoiced the County Executive on 23 November, 2023, however inspection and acceptance were carried out on 26 June, 2024 which is eight (8) months from the issuance of the LPO. It was not clear when the deliveries were done and why the ambulances took that long to be inspected. In addition, the inspection and acceptance committee indicated that one ambulance was not worked on but was replaced with another vehicle although it was part of the fourteen (14) ambulances that needed the refurbishments. Management did not also provide the performance security amounting to Kshs.4,239,936.

In the absence of the supporting documents and explanation, it was not possible to confirm the validity of the contract variation, whether refurbishments needed to be done and the value for money may not have been realized.

411.5 Overpayment on Rehabilitation Works at Gachika Dispensary

The County Executive awarded a local contractor a contract for the rehabilitation works at Gachika Dispensary at a cost of Kshs.9,998,230. The contractor subsequently signed a letter of acceptance and entered into a contract on 20 February, 2024. However, review of the project documents revealed that there was a delay in the implementation of the project as documented in the contract implementation team minutes which indicated that the project commenced on 27 May, 2024, three (3) months after the signing of the contract. Further, there was an overpayment of Kshs.4,816,495 for the Bill of Quantities items. No justification for the overpayment was provided by Management casting doubt on the value for money paid hence exposing the County Executive to financial loss.

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

412. Irregular Procurement in the Education Department

412.1 Proposed Construction of Model Twin ECDE Classroom with Offices and Toilet Block

A local contractor was awarded the contract for proposed construction of model twin ECDE classroom with offices and toilet block at Ngewa Primary in Githothua Ward at a contract sum of Kshs.2,943,627. The contract was entered into on 3 April, 2023. However, on 1 February, 2024, the contract was varied upwards by Kshs.703,000 to a revised contract sum of Kshs.3,646,627 which was ten (10) months from the date when the contract was signed contrary to Section 139(3) of the Public Procurement and Asset Disposal Act, 2015 which gives a period of twelve months.

Further, another local contractor was awarded a contract for the proposed construction of a model twin ECDE Classroom with offices and a toilet block at Uthiru Primary in Ngecha Ward Kiambu County at a contract sum of Kshs.2,946,150. The contract was entered into on 5 May, 2023. However, on 1 February, 2024, the contractor varied the contract upwards by an amount of Kshs.647,500 which was nine (9) months from when the contract was signed contrary to Section 139(3) of the Public Procurement and Asset Disposal Act, 2015.

412.2 Unclear Terms of Agreements

An audit of sampled procurement contracts during the year under review revealed that the County Executive entered into a contract for the construction of ECD classes and TVC in various parts of the County for a contract sum of Kshs.363,309,066. However, there was no contract that was signed between the County Executive and the contractor stipulating clearly the format as prescribed in the Public Procurement and Assets Disposal Act, 2015. This was contrary to Section 135(6) of the Public Procurement and Asset Disposal Act, 2015.

412.3 Procurement, Supply and Delivery of Play Stations - Education

The contract for the supply and delivery of a play station; single slide, six-seater merry-go-round and three-seater swing in various ECD Centres was awarded to a local contractor at a contract price of Kshs.15,400,000 on 15 May, 2024. Review of the evaluation report indicated that the Company had no experience in similar work contrary to the information provided in the tender document under the tenderer's eligibility where the tenderer stated the nature of the business to be constructed hence the need for due diligence on delivery of the supplies. The supplies were received in the stores on 18 June, 2014 and had not been issued to the users as the counter issue voucher, acknowledgments and distribution list were not provided.

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

413. Irregular Procurement in the Various Departments

413.1 Advance Payments

Management awarded a contract for the supply of dustbins via a request for quotations at a contract sum of Kshs.2,949,909 on 29 May, 2023. On 5 June, 2023, the supplier requested for an extension of 60 days and a 100% advance payment to commence the manufacturing of the goods. Management accepted the 100% advance payment and paid the supplier in full on 25 September, 2023. However, the payment was more than the 20% threshold acceptable in Section 147(1) of the Public Procurement and Asset Disposal Act, 2015.

Further, the contract provided did not include the relevant terms and conditions required to communicate important details such as scope of works, commencement of contracts and stipulated timeframes, contract price, variations (if any), contract documents, obligation to the parties, warranties and liabilities, indemnity, confidentiality, force majeure, disputes, termination of contracts and notices.

413.2 Procurement and Implementation of Ngoliba Water Project

Management awarded a contract for the supply and delivery of pipes and fittings for Ngoliba Water Project through quotations to a local contractor for a sum of Kshs.2,445,800. It was noted that half of the cost was charged to the water supplies and sewerage vote while the other half was charged to payables from the previous period. Further, the bids were opened on 7 February, 2024 thus the works could not have been a pending bill.

413.3 Unsupported Supply and Delivery of Material

Management contracted a local supplier for the supply and delivery of materials for the proposed construction of the boda boda shed at a cost of Kshs.2,995,186. The bidder requested for 100% advance payment via a letter dated 5 June, 2023. However, Management did not provide the standard quotation document for the winning bidder, invoice and delivery notes were not provided for audit.

413.4 Direct Procurement of Chicks, Seedlings and Napier Grass

The County Executive directly procured one hundred and fifty thousand (150,000) one-month-old chicks at a contract sum of Kshs.45,000,000 which was paid. The contract had no contract number and was dated 8 March, 2024 with Kenya Agricultural and Livestock Research Organization. However, no evidence was provided indicating that Management reported to the Public Procurement Regulatory Authority (PPRA) the direct procurement within fourteen days after the notification of the award of the contract exceeding an amount of Kshs.500,000. This was contrary to Regulation 90/(1)(b) of the Public Procurement and Asset Regulations, 2020. Article 2 of the contract agreement stated that the supplier shall supply and deliver the four thousand (4,000) chicks per week after receiving the Local Purchase Order (LPO) which was issued on 11 March, 2024. However, at the time of audit in the month of November, 2024 the supplier had delivered only sixty-four thousand (64,000) chicks out of one hundred and fifty thousand (150,000) chicks worth Kshs.19,200,000. No explanation was given as to why the supplier did not supply the remaining eighty-six thousand (86,000) chicks.

Further, Management procured grafted mango, pawpaw and orange seedlings and super nappier grass cuttings at a cost of Kshs.6,120,000. Review of documents provided for audit revealed that the goods were directly procured from a vendor contrary to the procurement law. Further, the County Executive after issuing the notification of award did not notify PPRA of the direct procurement undertaken as prescribed by the law. In addition, Management used the direct method of procurement without justification contrary to the provisions of Section 103 of the Public Procurement and Asset Disposal Act, 2015 which specifies conditions on when direct procurement may be used.

In the circumstances, Management was in breach of the law and value for money could not be confirmed.

414. Non-Implementation of Annual Procurement Plan Reports

The Head of the Procurement Unit did not maintain quarterly reports on the implementation of the annual procurement plan as prescribed by the law. This was contrary to Regulation 40(6) of the Public Procurement and Asset Disposal Regulations, 2020.

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

415. Irregular Operation of Bank Accounts in Commercial Banks

Review of the register for the bank accounts maintained revealed that the County Executive operated a total of two hundred and seventy-six (276) bank accounts with commercial banks. This is contrary to the Public Finance Management (County Governments) Regulation, 2015 which exempts imprest bank, petty cash and revenue collection bank accounts to be maintained in commercial banks.

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

416. Enterprise Resource Planning System

416.1 Irregular Expenditure

Management contracted a firm for the development, installation, testing, training, commissioning and support services of an Enterprise Resource Planning System (ERP) on the 28 of April, 2023 with a completion date of 30 November, 2023 at a contract sum of Kshs.230,000,000. However, the following observations were noted:

- (i) At the time of the audit, the deliverables are at milestone two (2) with an amount of Kshs.92,000,000 owed to the contractor. However, from the payment details, only an amount of Kshs.38,007,500 has been paid to date.
- (ii) An extension of the contract was done on 28 February, 2024 but did not include the new timelines against key deliverables, the scope of work described, retained or the contract sum revised or retained. Further, the contract was not valid hence an extension could not be done on a non-existent contract. Therefore, the payment of an amount of Kshs.15,007,500 done after the extension was based on a non-existent contract.

- (iii) The County Executive had entered earlier into a contract with a consultancy firm for the development of an Integrated Revenue Management System for three years on 4 November, 2021. The contract sum was Kshs.60,025,000 upon inception and Kshs.117,500,000 was the annual recurrent cost. However, the County Executive did not close out the contract yet entered into a new contract with another supplier for a new system against the law. The County Executive owes the former service provider a total amount of Kshs.412,525,000 together with damages charged for not closing out the contract.

416.2 Payment of Staff Training on Enterprise Resource Planning System

Management issued imprest to various officers to facilitate staff training on the use of an Enterprise Resource Planning System (ERP) at a cost of Kshs.2,354,815 as per clause 2.6 of the contract agreement. The second supplier was required to provide training and maintenance to the users of the ERP system hence this may have resulted to double payment on training since the contract had the provision for training users. The delay in implementation of the ERP system would affect the service delivery and expose the County Executive to loss of funds totalling Kshs.2,354,815 which could have been avoided.

In the circumstances, Management was in breach of law and value for money could not be confirmed

417. Inconsistencies in Paying for Monthly Internet and Secure Network Solutions

The County Executive paid an amount of Kshs.53,155,262 to a local supplier which included an amount of Kshs.23,321,319 for monthly internet and secure Software Defined Wide Area Network (SDWAN) solutions. Examination of payment vouchers revealed that the payment was not in line with the agreed price schedule of Kshs.3,341,032 per month amounting to Kshs.40,092,384 annually. Further, the County Executive did not make payments for five (5) months in September, January, February, March and June amounting to Kshs.16,771,064.

In the circumstances, the networks may be exposed to potential security vulnerabilities, increasing the risk of cyber-attack.

418. Irregular Procurements in the Roads Contracts

418.1 Rehabilitation Works

The County Executive advertised for an open tender for the rehabilitation of Kiamburu, Muihoko and Kwa Maiko Stage Tender on 13 September, 2023 via the County Executive website. The tender opening was done on 22 September, 2023 and the evaluation done on 23 September, 2023. However, the Evaluation Committee carried out the exercise on 29 September, 2023. No explanation has been issued regarding the anomaly. Only two (2) contractors responded to the advert. They were evaluated and contract was awarded to the lowest evaluated bidder. Notification of award was issued on 4 October, 2023 and the contract was signed on 31 October, 2023. The execution was to take ninety-one (91) days from the commencement date of 7 November, 2023. On 24 January, 2024 the contractor invoiced the County Executive an amount of Kshs.2,007,600 having completed part of the contract. However, the

works inspection sheet dated 29 January, 2024 was not signed by the inspection clerk but the sub-county engineer approved the works contrary to Section 48(4) of the Public Procurement and Asset Disposal Act, 2015

Further, the project did not have a progress report or hand over report or certificate and, there was no site inspection of the project, The value for money could not be established as there was no provision for partial payment of the contract as per article 5.1 of the contract, Additionally, Article 5.3 of contract provided for 10% retention money of work done on the contract price, however, no retention was done on this payment and there was no evidence of material testing.

418.2 Signing of Contract

Management contracted a local company for the rehabilitation of the dumping site in Kabete Sub-County, at a contract sum of Kshs.7,275,000. The professional opinion was issued on 29 September, 2023, and the award letter was issued to the contractor on 11 October, 2023. However, the contract was signed two days later thus on 13 October, 2023 contrary to Public Procurement and Asset Disposal Act, 2015, Section 135(3) which provides for a minimum of 14 days before signing of the contract.

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

419. Irregular Clearance of Pending Bills

419.1 Payment for Construction and Rehabilitation of Kimunyu – Thirika Access Road

The County Executive entered into a contract with a local company for construction and rehabilitation of Kimunyu - Thirika access road at an amount of Kshs.3,984,200. However, review of the payment revealed that;

- (i) The payment was made as part of pending bills
- (ii) Works were awarded on 12 October, 2018 and the LPO was issued on 22 October, 2018.
- (iii) The works were to be done within 90 days. However, the works were not done till 29 July, 2021 when the inspection and acceptance certificate was issued.
- (iv) The pending bill was originally budgeted in the year 2018/2019 however, the pending bill had not been audited and the County Executive made the payment in the year under review. Further, the payment was not supported with an interim payment certificate.
- (v) It is not clear how the works were done while the contract had expired in two (2) years. The County Executive did not provide justification that there was no other work that was done on the same road within the two-year period. The Invoice and Delivery Note was dated 27 July, 2021 while the inspection and acceptance were done on 29 July, 2021 casting doubts on whether the due

process was followed. Further, and at the time of payment the contractor did not have a valid tax compliance certificate.

419.2 Rehabilitation of Isiolo, Bamako Langata Roads

Review of Payment vouchers showed that a contractor was paid an amount of Kshs.2,308,400 for the rehabilitation of Isiolo, Bamako Langata Roads in Kamenu Ward under pending bills of the year 2018/2019. The contract period was 30 days. However, the tender was evaluated on 25 May, 2018 and notification of the award was done on 30 May, 2018. However, the LPO was issued on 13 June, 2019 more than a year later and the Delivery Note was issued on 21 June, 2019 while the invoice was undated but received on 26 August, 2022.

Further, the completion certificate was issued on 28 June, 2019 but the inspection and acceptance was done on 10 November, 2020, It was not clear why the payment had not been audited as a pending bill and was paid before the other payments that had been audited and recommended for payments. At the time of payment, the contractor did not have a valid tax compliance certificate.

419.3 Supply, Installation and Commission of Streetlights

The County Executive paid a local contractor an amount of Kshs.3,897,020 for the supply, installation and commission of streetlights at Senior Chief Koinange, Kanjiku Road, Thimbigua, Njoro and Kiogora Shopping Centre which was paid under pending bills of the year 2018/2019. The contract period was 30 days. However, the tender was awarded on 12 November, 2018 and the contract duration was one week. The contractor was said to have commenced the works on 18 November, 2018 and completed the works on 28 December, 2018 according to the completion certificate. The inspection and acceptance were done on 17 January, 2020; however, the certificate of completion was issued on 18 March, 2019 that may have been falsified documents and at the time of payment the contractor did not have a valid tax compliance certificate.

419.4 Construction of Workshop, Offices and Fencing at Kanyoni VTC

Examination of payment vouchers provided for audit revealed that the County Executive floated quotations to three (3) suppliers and entered into a contract with one of the suppliers at a contract sum of Kshs.3,642,340 dated 31 March, 2016. This was contrary to the second schedule of the Public Procurement and Asset Disposal Act, 2015 which sets maximum level of expenditure allowed for quotation method of works in Class A entity at an amount of Kshs.3,000,000.

In the circumstances, the regularity in the variance of the Pending Bills could not be confirmed.

420. Subscriptions to the Council of Governors

Management made payments totalling Kshs.6,573,000 to the Council of Governors and KICOSCA as subscriptions made by the County Executive that ought to have been paid by the National Government. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses

in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

421. Non-Compliance with the Law on Development Expenditure

The summary statement of appropriation - development reflects actual development expenditure amounting to Kshs.3,444,526,534 which represents 20% of the total expenditure for the year contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Executive to spend at least 30% of the actual expenditure on development purposes.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

422. Lack of Information Communication Technology Policy and Steering Committee

Review of the Information Communication Technology (ICT) environment revealed that the County Executive did not have an approved ICT Policy. The policy would have included data security and disaster recovery plans. Further, formally documented and approved processes to operationalize the draft ICT policy had not been documented and an ICT Strategic Plan to formulate policies and advice on ICT investment priorities.

Without an approved IT security policy, data confidentiality, integrity and availability could be compromised. Further, the IT operations may not be effectively managed and aligned to support the operations of the County Government.

In addition, the County Executive did not have an Information Communication Technology (ICT) Steering Committee. The function of the Committee is to carry out the ICT strategy and perform the day-to-day activities. Its responsibilities include managing spending, architecture and engineering of IT solutions, allocation of resources, project management and giving feedback to the board about the strategy. It was noted that the County Executive had gaps in information technology governance that might affect information technology management while dispensing the Department's mandate.

In the circumstances, effectiveness on the ICT controls and governance could not be confirmed.

423. Lack of Independence of the Internal Audit Function

Review of the County Executive's Internal Audit Unit revealed that the Department lacks functional independence since it operates under the Finance Department which may compromise its independence contrary to Section 155(1) of the Public Finance Management (County Governments) Regulations, 2015.

Further, Internal Audit Department had an Approved Workplan and the resources allocated for the implementation. However, from the interview conducted with the Director Internal Audit and the audit reports provided by the Department, the work plan was not implemented. Internal Audit report showed no audit was carried out in the Departments of Education, Gender, Culture and Social Services, Youth Affairs, Sports and Communication, Health Services and Administration and Public Services although they were in the work plan. Instead, the audit identified that the Internal Audit Department carried out six (6) special audits without the requests and approval.

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

424. Non-Compliance with Statutory Meeting Frequency by the Audit Committee

Examination of the Audit Committee meeting minutes during the year under review revealed that the Audit Committee met for only two (2) times in October, 2023 and March, 2024. Further, there were no annual reports from the Committee on the review of the independence, performance and competency of the Internal Audit Unit.

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

425. Weaknesses in Garbage Collection Management

Garbage Management in the County Executive is centrally done at Kang'oki dumpsite which stands on land size of two hundred (200) acres. Currently, the dumpsite is encroached and only one hundred (100) acres of land is left for the dumpsite but Management has not made any effort to reclaim the land for the dumpsite. Further, the County Management decommissioned all dumpsites in the County except Kang'oki putting pressure on the dumpsite as the only dumpsite in the County. In addition, the dumpsite is not fenced and the trucks are tipping at any point without control in the dumpsite making the County lose revenue related to dumping and littering the surrounding which poses health hazards to the inhabitants around the area.

Further, the County Executive had not installed a weighbridge at the Kangoki dumpsite hence there was no basis for determining the weights of the lorries which should be commensurate with the amount charged. This may greatly affect the revenue collected from the dumpsite.

In the circumstances, the existence of an effective revenue collection mechanism could not be confirmed.

426. Assets Management

426.1 Failure to Identify, Verify and Validate Assets of Defunct Local Authorities

The County Executive constituted the Assets and Liabilities Committee on 3 April, 2023 for the identification, verification and validation of the assets and liabilities of the County Executive. However, there was no evidence that the Committee had carried out the process of identifying, verifying and validating the assets since assets inspection reports were not provided for audit. Further, Committee minutes showing deliberations made towards the execution of the Committee mandate were not

provided for review. This was contrary to the Intergovernmental Relations Act, 2012 which states that (1) each County Assets and Liabilities Committee shall be responsible for the identification, verification and validation of the assets and liabilities of the defunct local authorities as on the 27 March, 2013.

426.2 Lack of Assets Management Unit in the County Executive

Review of County Executive operations revealed that there was no Asset Management Unit within the County charged with the responsibility of ensuring that there are adequate systems and processes to plan, procure, account, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury contrary to Section 149(2)(o) of the Public Finance Management Act, 2012. As a result, it may not be possible to confirm the different categories of assets in the County and whether appropriate officers are tasked with asset movement monitoring and control. This may result to procurement of assets not needed, loss of assets through theft or mismanagement by assigned staff/officers and keeping of assets not in usable condition.

426.3 Lack of Fleet Management System

Review of records revealed that the County Executive did not have a Fleet Management System to plan the usage of fleets within the County Executive and monitor and track the movement. Review of procurement documents provided for audit revealed that an advertisement was made in the local dailies in the month of September, 2022 for the procurement of a County Fleet Management System. However, no explanation was provided why the County had not procured a fleet management system. As a result, it may not be possible to plan and monitor the usage of the fleet within the County.

426.4 Land Without Ownership Documents

Review of the assets register provided for audit revealed that two thousand, seven hundred and sixty-two (2,762) parcels of land were indicated as owned by the Kiambu County Executive. However, land title deeds to prove ownership of the parcels of land were not provided for audit. Further, twenty-nine (29) title deeds provided for audit were not in the name of the County, four (4) title deeds were in the name of individuals and twenty-five (25) title deeds were under municipalities. No explanation was provided why the land title deeds had not been transferred to the County contrary to Regulation 132(1) of the Public Finance Management Act, 2015 which states that the Accounting Officer of a County Government entity shall take full responsibility and ensure that proper control systems exist for assets

In the circumstances, effective management of the assets could not be confirmed.

427. Non-Implementation of E-Procurement System

Review of the e-procurement system revealed that the contracts and tenders awarded to the various suppliers were not in the e-procurement. All ongoing contracts entered into prior thereto, and to which finalization of expected works, supplies or services pending completion and final payment were not in the e-procurement system contrary to Executive Order No. 6 of 2016 and No. 2 of 2018.

In the circumstances, transparency and efficient management of the procurement system may not effectively be achieved.

COUNTY EXECUTIVE OF TURKANA – NO.23

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

428. Non-Inclusion of Assets of Defunct Local Authorities

Annex 6 on summary of non-current assets register reflects cumulative historical cost of non-current assets balance of Kshs.8,138,461,262 and additions during the year amount of Kshs.2,465,247,617 all totalling Kshs.10,603,708,879. However, the balance excludes assets of undetermined value including land, buildings, motor vehicles, computers, and other office furniture and equipment taken over from the defunct local authorities. The process of verification and valuation by responsible entities was yet to be concluded and could not be confirmed when the process shall be finalized, and the assets included in the assets register of the County Executive.

In the circumstances, the existence, accuracy and completeness of non-current assets balance of Kshs.10,603,708,879 could not be confirmed.

Emphasis of Matter

429. 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 amount of Kshs.15,983,137,168 and Kshs.13,973,380,385 respectively, resulting to under-funding of Kshs.2,009,756,783 or 13% of the budget.

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

430. Under Absorption of Other Grants and Transfers

The County Executive received conditional grants amount of Kshs.501,853,120 into the County Revenue Fund bank account against a budgeted amount of Kshs.1,460,605,071 or 34% of the budget resulting to an under-funding of Kshs.958,751,951 or 66% of the budget.

Under disbursement of budgeted funds affected timely implementation of approved projects or activities in the County therefore denying its residents services or benefits accruing from completed projects/activities.

431. Pending Accounts Payables

Note 1 under other important disclosures, and as disclosed under Annex 2 to the financial statements reflects pending accounts payable balance of Kshs.801,687,224 composed of pending bills at the beginning of the year of Kshs.402,970,454, additions to pending bills during the year of Kshs.612,834,998 and Kshs.214,118,228 as payments of pending bills in the year. Failure to settle pending bills during the year to which they relate affects the implementation of subsequent year's budget programs as the accounts payable form a first charge on that year's budget provision. This was

also contrary to The National Treasury Circular which requires Accounting Officers to establish effective financial controls and maintain financial discipline in order to achieve efficient utilization of resources and ensure adherence to financial regulations and procedures to curb accumulation of pending bills.

My opinion is not modified in respect of these matters.

Other Matter

432. Delay in Exchequer Releases

The County Government of Turkana equitable share for the year under review amounting to Kshs.13,143,946,933 including other income (Saccos and Commissions) amount of Kshs.22,673 was received into the County Revenue Fund bank account from The National Treasury during the year.

However, the quarterly transfers were not disbursed in equal instalments in accordance with the payment schedule approved by the Senate and published in the gazette by the Cabinet Secretary for The National Treasury and Planning. There was under disbursement amount of Kshs.2,168,751,245 in quarter 1 and over disbursement amount of Kshs.1,117,235,488 in quarter 4. This was contrary to Section 4(2) of the County Allocation of Revenue Act, 2022 which states that each County Governments allocation under subsection (1) shall be transferred to the respective County Revenue Fund in accordance to the payment schedule approved by the Senate and published in the gazette by the Cabinet Secretary for the time being responsible for matters relating to finance in accordance with Section 17 of the Public Finance Management Act, 2012. Further, part of the County Executive's equitable share for year ended 30 June, 2024 amounting to Kshs.1,051,515,757 was disbursed by The National Treasury on 26 July, 2024, after closure of the financial year.

The late exchequer disbursements of equal share affected timely implementation of approved projects or activities therefore denying residents services or benefits accruing from completed projects.

433. Unresolved Prior Year Matters

The audit report for the year ended 30 June, 2023 raised several issues under the Report on Financial Statements and the Report on Lawfulness and Effectiveness in Use of Public Resources. Although Management indicated the status in the report on progress made in follow up of auditor's recommendations as resolved or ongoing while the matters remained unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

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

During the year, eight hundred and thirty (830) employees earned net salary which was less than one-third (1/3) of their respective basic salary. This was contrary to Section 19(3) of the Employment Act, 2007, which prohibits officers from over committing their salaries, and paragraph C.1(3) of the Public Service Commission

(PSC) Human Resource Policies, 2016 which provides that public officers shall not overcommit their salaries beyond two thirds (2/3) of the basic salary as this may expose the staff to pecuniary embarrassment. Management did not give satisfactory explanation for failure to comply with the policy.

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

435. Non-Compliance with County Governments Act, 2012 and National Cohesion and Integration Act, 2008

Review of the Integrated Personnel and Payroll Database (IPPD) for the month of June, 2024 revealed that the County executive had four thousand, four hundred and six (4,406) employees, out of whom three thousand seven hundred and twelve (3,712) or 84.25% were from one ethnic community while six hundred ninety-four (694) or 15.75% were from other communities. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community. In addition, during the year under review, the County Executive recruited six hundred and eighty-five (685) personnel into various positions. Analysis of the recruitment revealed that six hundred sixty-seven (667) or 97% of the new staff were from the dominant community while eighteen (18) or 3% were from non-dominant communities. This was contrary to Section 65(1)(e) of the County Governments Act, 2012, which provides that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure at least thirty (30%) percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

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

436. Unsurrendered Imprest

The statement of assets and liabilities reflects outstanding imprests and advances balance of Kshs.85,093,020 as disclosed in Note 14. Annex 5 to the financial statements. The outstanding imprest balance of Kshs.85,093,020 which was due for surrender on or before 30 June, 2024 and had not been surrendered by then. This was contrary to Regulation 93(5) of the Public Finance and Management (County Governments) Regulations, 2015 which requires a holder of temporary imprest to account for or surrender the imprest within seven working days after returning to the duty station.

In the circumstances, Management was in breach of the law and the County Executive is likely to lose funds due to unaccounted for imprest.

437. Idle Cash in Bank for County Aggregation and Industrial Park

The Council of Governors at a meeting held in May, 2023 deliberated on the implementation framework for County Aggregation and Industrial Parks (CAIP) which amongst others resolved that;

- i. The Council of Governors to consolidate and share the list of counties qualified to implement the CAIPs project under phase one based on the set evaluation criteria.

- ii. The County Government are the procuring and contracting entities for CAIPs project.
- iii. The Council of Governors to share the Bills of Quantities (BQs), designs and drawings, cost estimates and tender documents to Governors for their customization.

The Council forwarded the tender documents incorporating the tendering forms, evaluation and qualification criteria, bills of quantities, drawings and contract forms which the County Executive was requested to customize and submit to an updated website link for processing and advertisement by 23 May, 2023.

Review of documents provided for audit revealed that Management developed and submitted a part of Development Plan (PDP) for the Park through a letter dated 5 July, 2024, it also sought approval and opened a bank account at Central Bank of Kenya in April, 2024 and the Project is domiciled at the Ministry of Trade, Gender and Youth Affairs.

However, there was no evidence that Management submitted to the designated address, customized tender documents for the County Executive for processing and advertisement as required by the Council of Governors. Further, an amount of Kshs.100,000,000 deposited in the Project bank account had not been utilized and remained idle in the bank account. This was contrary to Regulation 83(1)(2)(b)(c) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the County Treasury shall be responsible for establishing sound cash management systems, procedures and processes to ensure efficient and effective banking and cash management practices. For purposes of this regulation sound cash management includes ensuring payments including transfers to other levels of government and county-government entities are made when due for efficient, effective and economical Programme delivery and the county governments normal terms for account, or avoiding accumulation of idle balances.

In the circumstances, Management breached the law and operationalization of the County aggregated Industrial Park could not be confirmed.

438. Purchase and Installation of High Mast Lighting within Lodwar Municipality

Management contracted a local contractor to supply, install and commission five (5) high mast lighting in Lodwar Municipality at a contract sum of Kshs.26,575,000. The contract agreement was signed on 27 March, 2023 which specified that the works were to be completed within six (6) months from the date of signing of the contract. The works were completed and inspection and acceptance certificate issued on 22 January, 2024. The inspection and acceptance report indicated that one of the lighting masts at Kanan Market was not connected and therefore was not lighting since the meter had not been processed.

However, the Inspection and Acceptance Committee proceeded to accept the goods, works and services as properly delivered. This was contrary to Section 48(3)(b)(c) of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection

and acceptance committee shall immediately after the delivery of goods, works or services inspect and review the goods, works or services in order to ensure compliance with terms and specification of the contract and accept or reject on behalf of the procuring entity, the delivered goods works or services. Physical inspection carried out on evening of 9 September, 2024 confirmed that the high mast lighting at Kanan Market was not functioning. No explanation was provided on why the meter had not been processed and connected nine (9) months after commissioning.

In the circumstances, Management was in breach of the law and value for money on the non-functional high mast lighting amounting to Kshs.5,315,000 could not be confirmed.

439. Incomplete Construction of Naakot Outpatient Dispensary

The tender to construct Naakot outpatient dispensary and two (2) door pit latrines in Lokokat ward was awarded to a local contractor on 25 January, 2024 at a contract sum of Kshs.8,635,420. The construction commenced on 14 March, 2024 and was to be completed on 13 July, 2024. However, project inspection on 10 September, 2024 revealed that the construction of the dispensary and the two door pit latrines stalled at lintel and walling level respectively. The amount paid to the contractor as at 10 September, 2024 was Kshs.5,181,252 or 60% of the contract sum. No sufficient explanation was given for failure to complete the project.

In the circumstances, value for money was not realized from the project.

440. Incomplete Construction of Nasura Dispensary

The tender to construct Nasura Dispensary and two (2) door pit latrines at Kangatotha ward was awarded to a local contractor on 5 March, 2024 at a contract sum of Kshs.9,321,010. The construction commenced on 14 March, 2024 and was to be completed on 13 July, 2024. However, project inspection on 10 September, 2024 revealed that the contractor had not fixed the ceiling board at the dispensary, floor screeding and tiling, the septic tank had not been completed with nero and covered with a lid top. The amount paid to the contractor as at 10 September, 2024 totalled Kshs.4,940,135 or 53% of the contract sum. No sufficient explanation was given for failure to complete the project.

In the circumstances, value for money was not realized from the project.

441. Delay in Supply and Installation of Reverse Osmosis Plant

The County Executive through Department of Water made payments totalling Kshs.20,313,981 to a local company for the supply and installation of the reverse osmosis plant at Kaituko and Monti township wards. The Company was awarded the tender on February, 2024 at a contract sum of Kshs.39,702,485 for period of six (6) months effective from the date of signing the contract and the construction is expected to be completed on 31 July, 2024.

Physical inspection of the project in the month of September, 2024 revealed that the project was not complete. Further, it was revealed that the contract period having expired on 31 July, 2024, the contractor had only implemented 60% of the contract. In

addition, the reverse osmosis plant installation worth Kshs.16,430,000 had not been done. Similarly, a pipeline extension worth Kshs.14,498,000 was also not done. This was contrary to Section 149(1) of the Public Finance Management Act, 2012 which provides that, an accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful, authorized, effective, efficient, economical and transparent.

In the circumstances, Management was in breach of the law and delay in the project may affect service delivery to the public.

442. Incomplete Construction of Gate and Fencing at Kakuma Stadium

Management awarded a contract for the construction of a gate and fencing works at Kakuma stadium to a local contractor at a contract sum of Kshs.9,785,000. However, Management did not provide audit contract details and progress of work reports on the contract. Examination of payment vouchers revealed that the contractor had been paid a total of Kshs.5,855,342 or 60% of measured works.

Field inspection of the project undertaken in September, 2024 revealed that the contractor was not on site and works had stalled at the preliminary level where chain-link and barbed wire fencing had been fixed only on one side of the stadium, the gate had not been fixed with steel main door as indicated in the tender document while two sets of pit latrines had not been roofed and fixed with doors, a number of concrete fencing posts had not been used and were left on the ground, an indication that the contractor had abandoned the site.

In the circumstances, the public did not receive value for money from the funds spent on the project.

443. Delay in Settlement of Legal Cases

Note 9, under other important disclosures in the financial statements, reflects an amount of Kshs.165,669,147 as a contingent liability which relates to a cumulative of fourteen (14) legal cases in various courts. The audit revealed that eleven (11) of the cases were ongoing, one (1) case was completed in favor of the County Executive at a cost of Kshs.2,550,000 while two (2) cases were ruled against the County Executive at a cost of Kshs.12,548,000.

From the analysis, it is estimated that with the ratio of ongoing cases being higher compared to the completed cases, there is a need to expedite cases by the County Attorney to avoid undue delays which may lead to compensation for damages suffered by the plaintiff which may be costly to the County Executive in accordance to Section 5(b) of County Attorney Act, 2020, which states that a County Legal Counsel shall- 'handle matters without undue delay, risk or unnecessary expense to the county government'.

In the circumstances, the public may not obtain value for money on the legal expenses incurred.

444. Irregularities in Project Management

444.1 Stalled Completion of Kataboi Eco Lodge

As reported in the previous year, an amount of Kshs.18,269,805 was paid to a local merchant for completion of Kataboi Eco lodge, at a contract sum of Kshs.60,016,621. However, audit of the procurement records revealed that during the financial year 2014/2015 the Department of Tourism had previously awarded a contract for the construction to completion of eco-tourism hotel at Kataboi in Lakezone ward to a contractor at a contract sum of Kshs.66,389,746 to be completed in December, 2015.

The project site inspection report done in October, 2018 by the Project Manager revealed the project had incurred approved variations amounting to Kshs.9,958,464 due to changes between the bills of quantities and drawings. The report also stated that the project was estimated to be 75% complete and 90% of the payments had already been made with a retention fee of Kshs.7,634,821. The Project Manager recommended for termination of the contract citing variation of contract costs which amounted to more than 25% of the contract sum and that the contract delivery period had elapsed.

Another site meeting held on 1 February, 2019 between Management and the contractor arrived at a mutual agreement on the winding up of the contract and it was agreed that the contractor be paid an amount of Kshs.7,634,821 as a retention fee. A termination letter dated 26 March, 2019 was issued to the contractor. However, a summary of payments made to the contractor before the termination of the contract was not provided to determine the total amount spent on the project.

Further, the project status report as well as the pre-inspection report from the Department of Infrastructure to confirm the remaining works to be done before issuing of new tender was not provided. In addition, bills of quantities for the new contract, payment voucher, interim payments certificate of works and statement for valuation for the expenditure of Kshs.18,269,805 were not provided for audit. The new contract did not specify the period under which the contract will be valid and the works completed.

A field audit inspection carried out in November, 2022 revealed that the contractor was still on site but not much of renovation work had been done. In addition, project progress reports, renewal of performance bond, records of additional payments during the year ended 30 June, 2023, completion certificates and other previous payments were not provided during further review of the project in August, 2023.

Field inspection on the project carried out in September, 2024 revealed that the contractor and security were not on site. Further, residents of the area have gained access to the facility with ongoing works by the contractor. This may lead to additional costs in rehabilitation.

444.2 Stalled Construction of Plastic Re-Use Facility

As reported in the previous year, a contract for the construction of a plastic re-use facility was awarded to a local contractor at a contract sum of Kshs.13,626,320. The contract agreement was signed on 13 January, 2017 and works were expected to be

completed within twelve (12) weeks commencing immediately upon signing of the agreement. The contractor was paid an amount of Kshs.4,895,620 on 15 April, 2021.

By the time of audit in November, 2022 the project was incomplete more than three (3) years after the expected completion date and the contractor was not on site. Further, project progress reports, renewal of performance bond, records of additional payments during the year ended 30 June, 2023, completion certificates and other previous payments were not provided during further review of the project in August, 2023.

Field inspection on the project carried out in September, 2024 revealed that the contractor was not on site, and the project remained incomplete.

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

444.3 Construction of Kalokol Resource Centre

As reported in the previous year, the tender for the construction of the Kalokol Resource Centre at Kalokol was awarded to a local contractor at a contract sum of Kshs.25,104,510. The contract agreement was signed on 12 January, 2021 and works are expected to be completed within sixteen (16) weeks commencing 27 January, 2021. The contractor was paid an amount of Kshs.11,678,590 on 28 June, 2021.

Inspection of the project in November, 2022 confirmed that the works were yet to be completed, more than eighteen (18) months after the lapse of the contract period. Approximately 50% of the work had been done and the contractor was not on site. However, the project progress report, renewal of performance bond, records of the payments made up to 30 June, 2023 and completion certificates were not provided for audit review during further review of the project in August, 2023.

Further, field inspection on the project carried out in September, 2024 revealed that the project was complete but not in use. The ceiling board at the verandah was almost falling due to leakages in the roof. In addition, fixtures such as taps, and window panes were getting damaged due to lack of security at the center.

In the circumstances, the effectiveness in the use of public resources could not be confirmed.

444.4 Delay in Completion of Turkana County Headquarters Building

The statement of receipts and payments reflects the acquisition of assets balance of Kshs.2,465,247,617 which includes construction of buildings amount of Kshs.439,858,419 as disclosed in Note 9 to the financial statements. The amount of Kshs.439,858,419 includes a contract variation amount of Kshs.156,562,939 comprising of cost escalation and interest charges paid to a construction firm for the construction of the Governor's office.

As reported previously, for construction of the Governors' office was awarded to a company at a contract sum of Kshs.695,854,432. The contract was signed in May, 2015 for a contract period of thirty-six (36) months. The contract commencement date

was 15 May, 2015 with an expected completion date of 30 June, 2017. The project had been given three (3) new completion dates, the third being 30 June, 2019. Further, letter dated 4 June, 2020 granted the contractor a further extension to 31 December, 2020.

The contract sum of Kshs.695,854,432 included a provisional contingency amount of Kshs.73,400,000 in respect of the purchase and installation of lifts, air conditioning, plumbing, builders work connection, electrical works and project managers expenses and project managers stationary. However, all these were contracted by the County Executive.

A company was subcontracted for the supply, delivery, installation, testing and commissioning of three (3) lifts at a contract sum of Kshs.29,497,845.37. The contract agreement was signed on 17 January, 2018. The County Executive had paid a total of Kshs.32,447,629 during the year. However, the payment amount of Kshs.32,447,629 exceeded the contract sum of Kshs.29,497,845 by an amount of Kshs.2,949,784 which was not supported by the approved contract variation. The lifts were not tested and commissioned.

Another firm was subcontracted for the supply, installation and commissioning of air conditioning in County headquarters at a contract sum of Ksh.82,588,770. During the year, the company was paid an amount of Kshs.14,085,657 although the air conditioners were yet to be installed. Contract agreement, performance bond, record of payments to the contractors and monthly project progress reports were not provided for audit review. Physical inspection of the project in November, 2023 revealed that, although the contractor was on site, the project was not yet complete and put into intended use. Lift testing and commissioning, carpeting, electrical and plumbing works and power connection all of undetermined amount were still pending.

Physical inspection carried out on the project in August, 2024 revealed that, although the contractor was on site, the project was not yet complete and put into intended use. Lift testing and commissioning, carpeting, electrical and plumbing works and power connection all of undetermined amount were ongoing and yet to be completed.

In the circumstances, the County Executive was likely to lose funds through contract variations, interest charges and cost escalations and value for money had not been realised on the expenditure already incurred.

444.5 Stalled Proposed Construction of Governor's Residence

As previously reported, the County Executive and a local construction company signed a contract for construction of Governor's residence. The contract works included construction of one-story residential house and erecting a perimeter wall. From the records provided, the contractor received payments amounting to Kshs.120,500,965 during the year ended 30 June, 2015. However, no documentation was provided on the contract agreement, the actual measured works, total payments made and what became of the contract that made a new contractor to be sought.

The new contract for completion of governor's residence was awarded to another company for the completion of Governor's residence at contract sum of

Kshs.90,563,900. The contract was signed on 24 April, 2019 for a contract period of fifty-two (52) weeks with expected completion date of 24 May, 2020.

The contractor vide letter dated 31 March, 2020 addressed to project manager Ministry of Roads, Transport, Housing and Public Works requested for contract extension for a further fifty-two (52) weeks from the date of the letter indicating that as at 19 November, 2019 the client had not issued the work drawings and sub-contractors for specialized works were yet to be procured.

The request was granted on 31 October, 2021 vide letter dated 3 April, 2020. The APA insurance extended the performance bond to 31 October, 2021. Since the elapse of this extension, there was no evidence of any further extension of the contract period nor termination of the contract. By 16 November, 2021 certified works amounting to Kshs.17,917,599 had not been paid as at the time of audit in November, 2023. Arising from this debt, the contractor through letter Ref; HJ/11613/005/21 dated 16 November, 2021 and addressed to the Project Manager Ministry of Roads, Transport, Housing and Public Works gave notice of stoppage of works on account of the outstanding amount. An advisory by the County Attorney vide letter dated 28 September, 2021 to the chief Officer, Office of the Governor advising Management to pay the contractor for works done had not been responded to.

Further, the following observations were made:

- i) At the preliminary evaluation stage, it was mandatory requirement that all pages of both original and copy of tender documents must be sequentially serialized. However, the contractor submitted documents that were not sequentially serialized and should have been disqualified.
- ii) In the technical evaluation stage, the pass mark was 60 marks and the firm was awarded 60 marks yet the firm had not submitted mandatory tender documents, such as reference recommendation letters, evidence of contract supply of goods and a letter of commitment confirming duration of time to deliver goods from time of receipt of LPO and therefore the firm should not have proceeded to the financial evaluation stage.
- iii) Management did not hold any negotiation with the company despite the evaluated price being more than the budgeted amount by an amount of Kshs.563,900.
- iv) The additional purchase orders: No.1283 dated 30 March, 2022 for Kshs.2,327,540 and No.1640 were issued on 2 June, 2023 for a total of Kshs.14,514,160 after the expiry of the contract period and the performance bond.
- v) Project inspection in November, 2023 revealed that the project was incomplete and the contractor was not on site. Roofing works and other finishing works had not been done.
- vi) The amount of Kshs.17,917,599.66 due to the contractor was not included in pending bills for the year ended 30 June, 2023.

- vii) Expenditure on the project had exceeded the limit of Kshs.45 million set by Salaries and Remuneration Commission (SRC) and no evidence was provided of approval to continue spending on the project.
- viii) The Governor and his Deputy irregularly earned an amount of Kshs.2,280,000 as housing allowance after the period for such allowance being paid was 30 June, 2022.

Physical project inspection exercise done in August, 2024 revealed that the contractor was on site but no works were ongoing. Management did not provide an explanation on why the contractor had stopped work on the project.

444.6 Stalled Construction of Modern Business Centre Located in Lodwar Municipality

As previously reported, the County Executive entered into a contract for the construction of a modern business centre in Lodwar at a contract sum of Kshs.132,390,490. The contract was to run for a period of five (5) years beginning 23 May, 2016 with an expected completion date of 20 June, 2020. The County Executive paid an amount of Kshs.22,195,934 towards the contract. However, physical verification of the project in January, 2020 confirmed that the contractor had deserted the site and hence the project had stalled for over seven (7) months after its expected completion date. In addition, a project inspection carried out on the project in September, 2024 revealed that the project has remained stalled.

In the circumstances, the public may not get value for the money spent on the Project.

445. Project Implementation Status

Review of the County Executive's Project Implementation Status as at 30 June, 2024 revealed that the County Executive had planned to implement two hundred and sixteen (216) projects during the year under review valued at Kshs.1,392,614,644 out of which one hundred and thirty (130) projects valued at Kshs.770,863,917 were completed, with eighty-six (86) projects valued at Kshs.621,750,727 were ongoing. This is an indication of inadequacy in project planning and control mechanisms to ensure efficient absorption of available funds. Further, reports on stalled projects were not provided for audit.

In the circumstances, the residents may not have obtained value for money in respect of the projects that were set to be implemented as planned during the year.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

446. Lack of Non-Current Assets Register

Annex 6 on summary of the non-current assets register reflects a cumulative historical asset balance of Kshs.10,603,708,879. However, the County Executive did not maintain assets register. This was contrary to Section 149(2)(o) of the Public Finance

Management Act, 2012 which states that in carrying out responsibility imposed by sub-section (1), an Accounting Officer shall, in respect of the entity concerned - ensure that the respective county government entity has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General.

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

447. Information Communication Technology Controls

447.1 Weaknesses in Information and Communication Technology Controls

Review of Information Communication Technology (ICT) environment and documents provided by Management indicated that though the County Executive has made progress in the development of ICT Policy, the policy was not approved in-order to pave way for the constitution of effective IT Strategic Committee that will provide strategic advice on ICT initiatives and investments.

Further, an approved ICT Strategic Plan was not provided to confirm that the County Executive had a clear IT vision and mission that defines how it plans to improve internal processes in order to provide efficient services to the public. In addition, Management had constituted an IT Steering Committee. However, there was no documentary evidence to confirm that the committee was functional or has undertaken any activities since its appointment on 1 August, 2023. Without a sound and approved ICT Policy framework, system users do not have any rules and procedures to follow to minimize risk of errors, loss of data confidentiality, data availability and data integrity.

In the circumstances, the existence of an effective ICT governance, adequacy of internal control structures in safeguarding public resources could not be confirmed.

447.2 Physical and Environmental Weaknesses over the ICT and E-government Controls

The County Executive had mandated the department of ICT and E-government to develop quality, reliable, sustainable and resilient infrastructure for economic development that provides universal and affordable access to the internet and to reduce operational cost by issuing a supplementary budget amount of Kshs.20,190,000.

However, audit revealed a number of ICT related issues which could adversely affect the operations of the County Executive if not attended to as listed below:

- i) **Cabling or Network:** The cables were not labelled making it hard to troubleshoot should an outage occur and there was an absence of documentation on the available network topology.
- ii) **Accessibility to back panels:** Working behind the racks was extremely difficult and the spacing and arrangement of the racks needed to be improved.

- iii) **Power:** There was no surge protector for the equipment in the Data Center and whenever main electrical power goes off, the available UPS could not withstand the available equipment operation for more than thirty (30) minutes.
- iv) **Security:** The Data Center door was located on the same corridor serving many other offices that serve the general public, there was also no logging in/out of visitors to the Data Center. Further, there was no intrusion detection system in place.
- v) **Fire:** Fire suppression system was not in place and there were highly combustible materials at the back of the Data Center.
- vi) **Lack of disaster recovery site:** The County Executive should have a disaster recovery site in place that can be used, in case the Data Center goes down to enable recovery of backups and restore critical systems and data.

In the circumstances, there are no adequate safe-guards at the Data Centre to protect the equipment and critical data from intrusion.

COUNTY EXECUTIVE OF WEST POKOT – NO.24

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

448. Inaccuracies in Exchequer Releases

The statement of receipts and payments reflects Exchequer releases amounting to Kshs.5,967,223,847 as disclosed in Note 1 to the financial statements. However, review of the County Revenue Fund's financial statements revealed that an amount of Kshs.5,965,061,666 was transferred to the County Executive during the year. The resulting variance of Kshs.2,162,181 has not been explained or reconciled.

In the circumstances, the accuracy and completeness of the Exchequer releases amounting to Kshs.5,967,223,847 could not be confirmed.

449. Inaccuracies in Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government entities amounting to Kshs.777,775,955 as disclosed in Note 4 to the financial statements. However, the amount did not include returns to County Revenue Fund (CRF) amounting to Kshs.46,884,886 reflected as receipts in Note 4 to the financial statements of the County Revenue Fund.

In the circumstances, the accuracy and completeness of the transfers to other Government entities amounting to Kshs.777,775,955 could not be confirmed.

450. Unsupported Own Source Revenue

The statement of receipts and payments reflects Exchequer releases amounting to Kshs.5,967,223,847 as disclosed in Note 1 to the financial statements. Included in this amount is Kshs.185,477,320 also reported in the statement of receipts and payments for Receiver of Revenue - County Government of West Pokot as own source revenue. However, review of the collection systems revealed that the County Executive had not fully automated its revenue streams. Further, the County Executive did not have an updated valuation roll.

In the circumstances, the accuracy and completeness of the County Executive's own source revenue amount of Kshs.185,477,320 could not be confirmed.

Emphasis of Matter

451. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.6,878,909,805 and Kshs.5,967,223,847 respectively resulting to an underfunding of Kshs.911,685,958 or 13% of the budget. Similarly, the County Executive spent an amount of

Kshs.5,914,265,308 against an approved budget of Kshs.6,878,909,805 resulting to an under absorption of funds of Kshs.964,644,497 or 14 % of the budget.

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

452. Pending Accounts Payables

Note of Other Important Disclosures to the financial statements reflects pending accounts payables balance of Kshs.321,655,764 comprised of Kshs.170,428,094 relates to construction of buildings and civil works, an amount of Kshs.54,529,388 on supply of goods and Kshs.96,698,282 on services. Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of these matters.

Other Matter

453. 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. Although Management has indicated that the issues have been resolved, the matters remain unresolved as the Senate has not deliberated and issued recommendations on them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

454. Completed but Unutilized Projects

Review of records revealed that ten (10) projects in respect of the construction of health facilities and roads were implemented to completion by the Departments of Health and Roads, Public Works and Transport at a total cost of Kshs.23,532,775. However, the projects were not in use either as they had not been handed over by the contractors and were not equipped or required additional costs to make them usable.

In the circumstances, the value for money on the expenditure of Kshs.23,532,775 incurred on the projects could not be confirmed.

455. Stalled Construction of a Male Ward at Kacheliba Sub-county Hospital

Review of documents revealed that during the year under review, Management awarded a for the construction of a male ward at Kacheliba Sub-county Hospital at a contract sum of Kshs.9,890,191. However, a physical inspection in September, 2024 revealed that the project was approximately 70% complete with a total of

Kshs.7,298,186 having been paid. The contractor was not on site and therefore the project had stalled.

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

456. Stalled Completion of Pkopoch Tourist Hotel and Hospitality Development Centre

Review of documents revealed that Management awarded a local contractor a tender to construct the Pkopoch Tourist Hotel and Hospitality Development Centre at a contract sum of Kshs.352,123,565 on 15 May, 2015. However, another contract was awarded to the same contractor at a contract sum of Kshs.19,691,777 to carry out protection works at the Pkopoch Tourist Hotel and Hospitality Development Centre with no contract period stated in the contract agreement.

No documentation in support of the termination process was presented for audit even though a second contract was awarded on the same project. The total amount paid as at the time was Kshs.84,740,392 which included an amount of Kshs.17,722,599 paid for the second contract.

Physical inspection in September, 2024 revealed that the project had stalled at first-floor superstructure and the contractor was not on site.

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

457. Stalled Completion of Ladies Hostel at Chesta Teachers Training College

A local contractor was awarded a contract to construct, install and complete works of a twin dormitory at Chesta Teachers Training College at a contract sum of Kshs.37,400,536 and a contract period of one hundred and fifty (150) days during 2014/2015 financial year. However, the contract was terminated in September, 2017 while at 70% completion level with works certified valued at Kshs.33,547,063.

Another contract was then awarded at a contract sum of Kshs.29,814,545 in May, 2023 for a contract period of two hundred and ten (210) days to be completed by 30 November, 2023. The scope of works included, external walling finishes, rainwater disposal, window and doors fixing, internal finishes, staircase and balcony railing, floor finishes, ceiling finishes, construction of septic tank (90,000ltrs) and electrical works.

However, physical inspection in September, 2024 revealed that the construction of the septic tank (90,000ltrs) and rainwater disposal were not done and the contractor was not on site.

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

458. Stalled Completion of Education Administration Office Block in Kapenguria

Review of records revealed that a local contractor was awarded a contract for the construction of an office block to completion in May, 2015 at a contract sum of Kshs.52,457,964 for a contract period of three (3) years. The contract was terminated in September, 2020 on the grounds that the contract period had lapsed yet the project was not complete. At the time of contract termination, the contractor had been paid an amount of Kshs.35,842,107.

In May, 2021, another contractor was awarded to do some works which included door and window fixing, stone pitching, plastering, painting and staircase and ramp linkage at a contract sum of Kshs.4,999,960 for a contract period of three (3) months where works valued at Kshs.4,094,417 were completed. The remaining works of Kshs.905,543 were retendered.

In the circumstances, the value for money on the expenditure incurred on the delayed project could not be confirmed.

459. Delay in Completion of Construction of Governor's Office Complex

A local contractor was awarded a contract for the construction of the Governor's Office Complex (Phase I) on 04 June, 2019 at a contract sum of Kshs.198,475,572. Further, a second contract was awarded to the same contractor on 12 April, 2024 for Phase II at a contract sum of Kshs.20,000,000.

Physical inspection of the project in September, 2024 and review of the original Bill of Quantities (BQs) revealed that, the County Executive changed the office complex floor design from the initial six-storey building to a four-storey building. However, the revised architectural design and plan, revised BQs, project implementation committee minutes and recommendations and Accounting Officers' approvals for the changes were not presented for audit review. Further, the contractor was not on site and the project had stalled.

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

460. Partial Implementation of the E-Procurement System

Review of the IFMIS procure-to-pay module revealed that tender opening, professional opinion, notification of intention of the award, tender award, contract agreement and receipt of goods were not done in the system. This was contrary to Regulation 49(2) of the Public Procurement and Assets Disposal Regulations, 2020 which provides that the conduct of e-procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

In the circumstances, Management was in breach of law.

461. Non-Compliance with Law on Fiscal Responsibility Relating to Wage Bill

The statement of receipts and payments reflects total receipts amount of Kshs.5,967,223,847 compared to the compensation of employees amount of Kshs.2,613,594,025 which is forty-four percent (44%) of the total revenue. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the County Government's expenditure on wages and benefits for its public officers shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

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

Review of the County's payroll data for twelve months for the year revealed instances where employees received net salaries which were less than a third of their respective basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 and Part C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires the total amount of all deductions from an employee's salary not to exceed two-thirds of such wages unless otherwise directed by the Minister.

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

463. Failure to Publish and Publicize Tenders and Contracts

During the year under review, three hundred and twenty (320) tenders were advertised on the County's website and the Public Procurement Information Portal. However, awarded contracts resulting from these tenders were not published in the Public Procurement Information Portal and website. This was contrary to Section 138 of the Public Procurement and Asset Disposal Act, 2015 and Executive Order No.2 of 2018 which requires that the tenders and contracts are placed on the County's website and the portal.

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

464. Irregular Commitment of Funds

Review of the purchasing activity register revealed that funds amounting to Kshs.232,098,357 were committed vide various local purchase orders after 31 May, 2024 while written approvals to commit the funds past the statutory deadline were not provided for audit. This was contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that, all commitments for the supply of goods or services shall be done not later than the 31 May each year except with the express approval of the Accounting Officer in writing.

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

465. Non-Compliance with Law on Staff Ethnic Composition

Review of personnel records revealed that, out of the twenty (20) County employees recruited during the year under review, eighteen (18) or approximately 90% were from

the dominant community. This was contrary to Section 65(e) of the County Government Act, 2012 which states that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

Further, the County Executive had a total of four thousand, four hundred and eight (4,408) public officers out of whom three thousand, seven hundred and thirty-seven (3,737) or approximately 85% were from the dominant community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which requires that all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

466. Lack of Valuation Roll

The County Government of West Pokot did not have an updated valuation roll in place and the property rates were based on historical property values which did not represent the current market values. This was contrary to Section 3 of the Valuation for Rating Act, 1984 which requires that every local authority, at least once in every ten (10) years, cause a valuation to be made of every ratable property within the area of the local authority in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll.

In the circumstances, Management did not take the necessary measures to enhance the collection of revenue.

467. Internal and External Performance Appraisal on the Internal Audit Department

During the year under review, the Head of the Internal Audit did not conduct a performance appraisal of the internal audit function to evaluate its effectiveness. Further, the Audit Committee failed to carry out an annual review of the independence, performance and competency of the internal audit activity as well as provide recommendations for improving its effectiveness. Further, no evidence was provided to confirm that an external professional assessment of the Internal Audit Department had been conducted in the past three (3) years to evaluate its effectiveness.

In the circumstances, the effectiveness of the internal audit in ensuring strong internal controls could not be confirmed.

468. Lack of Enforcement of Internal Audit Recommendations

Review of internal audit reports revealed that although Management responded to the issues raised, there was no evidence that Management had established an effective

system for monitoring the implementation of audit recommendations. This was contrary to Regulations 165(1) and 165(2) of the Public Finance Management (County Government) Regulation, 2015 which provides that the Accounting Officer shall be responsible for the implementation of the recommendations made in the audit reports and shall develop response and action plan.

In the circumstances, the effectiveness of the internal audit in ensuring strong internal controls could not be confirmed.

COUNTY EXECUTIVE OF SAMBURU – NO.25

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

469. Inaccuracies in Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed in Note 13A to the financial statements reflects cash and cash equivalents balance of Kshs.142,476,191.

The bank reconciliation statement for one (1) bank account reflects receipts in the cash book not recorded in the bank statement totaling Kshs.102,198,283 as at 30 June, 2024.

Further, the balance represents bank balances for fifteen (15) special purpose accounts operated by the County Executive. During the year under review, the County Executive maintained another twenty-five (25) active operation accounts in various commercial banks. However, Management did not provide the approval status of the accounts, dates when the bank accounts were opened, signatories to the bank accounts, certificate of bank balances as at 30 June, 2024 and the dates when the County Treasury granted approval for opening and operating the bank accounts. Further, the accounts were not disclosed under other important disclosures in the financial statements.

In the circumstances, the regularity, accuracy and completeness of the cash and cash equivalents balance of Kshs.142,476,191 could not be confirmed.

Emphasis of Matter

470. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual on a comparable basis amounting to Kshs.6,977,942,770 and Kshs.5,724,353,308 respectively, resulting in an under-funding of Kshs.1,253,589,462 or 18% of the budget. However, the County Executive spent an amount of Kshs.5,666,818,805 against actual receipts of Kshs.5,724,353,308 resulting in an under-utilization of Kshs.57,534,503 or 1% of actual receipts.

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

471. Late Exchequer Releases

The statement of receipts and payments and Note 1 to the financial statements reflects transfers from the County Revenue Fund (CRF) balance of Kshs.5,550,672,020 in respect of exchequer releases. However, Exchequer releases amounting to Kshs.1,454,521,248 were received during the month of June, 2024 and August, 2024.

As a result of the delay, service delivery to the public may have been adversely affected.

472. Pending Bills Not Paid as First Charge

Note 20 under Other Important Disclosures to the financial statements reflects opening pending accounts payables and other pending accounts payables opening balances of Kshs.465,119,507 and Kshs.134,884,756 as outlined in Annex 2 and 4 respectively. However, amounts of Kshs.208,786,719 and Kshs.132,535,604 in respect of pending accounts payables and other pending payables which should have been paid as first charge were still outstanding at the end of the financial year under review. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

My opinion is not modified in respect of these matters.

Other Matter

473. 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, although Management indicated that the issues had been resolved, the matters remained unresolved as of 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

474. Compensation of Employees

474.1 Non-Compliance with the Law on Fiscal Responsibilities on Wage Bill

The statement of receipts and payments and Note 3 to the financial statements reflects compensation of employees' amount of Kshs.2,272,177,408 or 41% of the total receipts of Kshs.5,550,672,020. The County Executive therefore exceeded the 35% limit set under Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the County Government expenditure on wages and benefits for public officers not exceed 35% of the County total revenue.

474.2 Irregular Staff Recruitment

Included in the expenditure for compensation of employees balance of Kshs.2,272,177,408 is an amount of Kshs.60,069,840 that was made to twenty-nine (29) staff members under the "Governors Delivery Unit". As previously reported, the unit was not provided for in the approved Organization Structure and the duties and

responsibilities of the members were not defined. Further, approval from the County Public Service Board (CPSB), advertisement, applications, shortlisting, interviews and selection of successful candidates were not provided for audit confirmation contrary to Section 68 of the County Governments Act, 2012 which requires the Public Service Board to maintain a record of all applications received in response to advertisements inviting applications and such records that may be inspected by any person.

474.3 Salaries Paid Outside Integrated Payroll and Personnel Database System

The County Executive paid an amount of Kshs.319,651,201 as salaries to staff members outside the Integrated Payroll and Personnel Database (IPPD) system. Approximately three hundred and fifty (350) officers in the County Executive were being paid outside the IPPD payroll system. This was contrary to Section 1.5.1 of The National Treasury Financial Accounting Recording and Reporting Manual which requires salaries, allowances or arrears of County Government employees to be processed through the Integrated Payroll and Personnel Database (IPPD).

474.4 Non-Compliance with National Cohesion and Integration Act, 2008

The County Executive had a total staff of two thousand, two hundred and twenty-nine (2,229) employees out of whom one thousand, seven hundred and forty-nine (1,749) or 72% members of staff were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one-third of its staff from the same ethnic community.

474.5 Non-Compliance with Guidelines on Acting Positions

Management paid thirteen (13) staff members acting allowance for a duration exceeding six (6) months amounting to Kshs.1,302,641. This was contrary to Section C.14(1) of the Public Service Commission, Human Resource Policies and Procedures Manual May, 2016 which states that when an officer is eligible for appointment to a higher post and is called upon to act in that post pending advertisement of the post, he is eligible for payment of acting allowance at the rate of twenty percent (20%) of his substantive basic salary. Acting allowance will not be payable to an officer for more than six (6) months.

474.6 Irregular Engagement of Casuals

Included in the expenditure for compensation for employees is an amount of Kshs.36,441,690 that was paid to casual workers in the Health Department. However, no staff rationalization was done to assess the need to hire casuals, the County Public Service Board (CPSB) was not involved in the recruitment of casual workers and no muster roll was provided to confirm work attendance.

In addition, the casuals were engaged for more than three (3) months without review of their terms contrary to Section 37(1)(b) of the Employment Act, 2007 which states that where a casual employee performs work for more than three months, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly and Section 35(1)(c) shall apply to that contract of service. This exposes the County to litigation for unlawful terms of employment.

474.7 Non-Remittance of Statutory Deductions

An amount of Kshs.160,248,535 was incurred in respect of pension and social security benefits (employer contribution to compulsory National Social Schemes). However, the County Executive did not remit a balance of Kshs.9,732,171 to National Social Security Fund and Kshs.60,613,975 to other pension schemes. This was contrary Section 20(1A) of the National Social Security Fund No.45 of 2013 which requires an employer to pay the contribution on the ninth day of each month following the end of the month.

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

475. Use of Goods and Services

The statement of receipts and payments and Note 4 to the financial statements reflects use of goods and services balance of Kshs.1,459,188,123. However, the following anomalies were noted: -

475.1 Inadequacies in the Use of Framework Contracting

An amount of Kshs.31,080,000 was used for the purchase of foodstuffs for Early Childhood Development and Education (ECDE) centers within the County. The tender was done through a mini-competition for companies with existing framework contracts. However, the company that was awarded the tender was not contracted under the category of rice and beans and was therefore irregularly entered into a mini-competition contrary to Regulation 103(2)(b) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer may award a contract under a framework agreement through inviting mini-competition amongst the suppliers under the framework agreement.

Further, the use of framework agreement rather than open tendering was not sufficiently justified contrary to Section 91(1)(2) of the Public Procurement and Asset Disposal Act, 2015 which states that open tendering shall be the preferred procurement method for procurement of goods, works and services and the procuring entity may use an alternative procurement procedure only if that procedure is allowed and satisfies the conditions under this Act for use of that method.

475.2 Irregular in the Management of Training Expenses

The County Executive made payments amounting to Kshs.62,997,084 in respect of training expenses. However, there was no evidence of training needs assessment and training projections to justify the expenditure and the County Executive did not have a training program.

Further, Management did not prepare quarterly returns on trainings that took place during the financial year and gauge their effectiveness. It was also revealed that staff at the County Executive applied for reimbursement of subsistence allowances and training fees without providing evidence that the trainings were approved before proceeding and that the officers were nominated for the training by the Head of the Human Resource Department or delegated departmental heads and copied to the head of the County Human Resource Department.

475.3 Irregular Payments to Council of Governors and Frontier Counties Development Council

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,459,188,123 which includes an amount of Kshs.437,848,253 in respect of other operating expenses out of which, amounts of Kshs.3,000,000 and Kshs.3,604,800 were payment for annual subscription to the Council of Governors and Frontier Counties Development Council respectively. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

475.4 Irregular Supply of Learning and Playing Materials to ECDE Schools

The statement of receipts and payments and Note 4 to the financial statements reflects use of goods and services amount of Kshs.1,459,188,123. Included in this expenditure is an amount of Kshs.270,392,151 in respect of specialized materials and services out of which an amount of Kshs.8,978,099 was used for the purchase of learning and playing materials for ECDE centers within the County. However, it was not possible to determine whether the learning and playing materials were supplied at fair prices as Management did not provide a market survey.

In addition, during the audit inspection, it was noted that the Slides that were delivered had no tunnels and the Swings had only two (2) seats on each side instead of three (3) seats as per the Bills of Quantities. This was contrary to Regulation 223(1)(c) of the Public Procurement and Asset Disposal Regulations, 2020 which states that subject to the provisions of Section 176 of the Act, a public officer of a procuring entity shall not procure goods, works or services at unreasonably inflated prices beyond the indicative market survey which the Department had not carried out.

475.5 Irregular Late Commitments

Review of procurement records revealed that expenditure commitments/contracts for various supplies of goods and services amounting to Kshs.156,235,210 were made after 31 May, 2024 without the written approval of the Accounting Officer. This was contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that all commitments for the supply of goods or services shall be done not later than the 31 May each year except with the express approval of the Accounting Officer in writing.

In the circumstances, Management was in breach of the law and value for money for the above expenditure could not be confirmed.

476. Failure to Submit Financial Statements for Audit

476.1 Emergency Fund

The statement of receipts and payments and Notes 6 and 7 to the financial statements reflect an amount of Kshs.566,502,436 and Kshs.214,691,471 as transfers to other

Government agencies and other grants and transfers respectively. Included in these balances are an amount of Kshs.253,178,575 and Kshs.40,000,000 being expenditures on emergency locust response and emergency relief and refugee assistance respectively. However, the County Executive did not prepare and submit financial statements for the Emergency Fund to the Auditor-General. This was contrary to Section 115(1) of the Public Finance Management Act, 2012 which requires the County Treasury to prepare and submit to the Auditor-General, financial statements in respect of the Emergency Fund for that year not later than three months after the end of each financial year.

476.2 Municipality of Maralal

The Municipality of Maralal Board was awarded a Charter in January, 2019. However, Management has not prepared, and submitted financial statements to the County Executive Committee Member for onward transmission to the Office of the Auditor-General. This was contrary to Section 46(2) of the Urban Areas and Cities Act, 2011 which states that within a period of three months after the end of each financial year, the board or town committee shall submit to the County Executive Committee its accounts for that year for transmission to the Auditor-General.

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

477. Irregularities in Acquisition of Assets

477.1 Stalled Construction of Inpatient Block at Samburu County Referral Hospital

The County Executive of Samburu entered into a twelve (12) months contract with a local company for the construction of an inpatient block at the Samburu County Referral Hospital on 30 March, 2022 at a contract sum of Kshs.116,951,010. By 30 June, 2024, the contractor had raised (3) certificates amounting to Kshs.107,790,785 and which had been fully paid.

Project inspection carried out on 17 September, 2024 revealed that the contractor was not on site and doors, windows, finishes, electrical works, sanitary fittings and foul drains and lift shaft had not been done. No explanation was provided on why the contractor was not on site and why the works were still incomplete.

477.2 Early Childhood Development Education Centers

The statement of receipts and payments and Note 9 to the financial statements reflects acquisition of assets amounting to Kshs.1,152,259,363. The following issues were observed;

477.2.1 Irregular Fencing Works

Included in this expenditure is an amount of Kshs.229,838,868 in respect of construction of buildings out of which an amount of Kshs.10,247,500 was used for fencing works of fifteen (15) Early Childhood Development Education, ECDE centers within the County. However, the winning bidder had failed at the preliminary evaluation for failure to attach an AGPO certificate for youth as one of the requirements for the

tender, but the evaluation committee proceeded to recommend the company for the works.

Further, audit inspection carried out in September, 2024 in sampled schools revealed that the fencing works were done with untreated cypress posts which were already being damaged by termites. In addition, the Bill of Quantities and payment certificates provided different descriptions for the fencing works where, the Bill of Quantities required, the contractor to use treated cypress posts but the payment certificate done by the quantity surveyor indicated the certified works were done with concrete posts, which differ from what was implemented.

477.2.2 Insufficient Budgetary Allocation for the Construction of Latrines

During the year under review, Management awarded a contract for construction of sixty (60) ECDE pit latrines to a local company at a contract sum of Kshs.32,301,200 or Kshs.535,020 per pit latrine as per the contract dated 10 November, 2023. However, it was noted that as per the approved supplementary budget, only twenty (20) ECDE pit latrines were approved for construction with a budget of Kshs.12,000,000. The budget reduction was done after the County Executive had entered into a contract worth an amount of Kshs.32,301,200 and works for the same were ongoing. This was contrary to Section 53(8) of Public Procurement and Asset Disposal Act, 2015 which requires that an Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

477.3 Stalled Construction of Governor's Official Residence

The County Executive entered into a contract with a local contractor for construction of the Governor's official residence on 17 January, 2022 for a total contract sum of Kshs.87,586,528. The contract sum exceeded the ceiling set by the Salaries and Remuneration Commission of Kshs.45,000,000 for the construction of Governors' residences. As at 30 June, 2024, an amount of Kshs.60,440,153 had been paid to the contractor for the works. However, documents to confirm the exemption of the above over-expenditure on the Governor's Official Residence by the Senate were not provided for audit. Further, the deadline of 30 June, 2022 for the completion of the residence had been surpassed as provided by the Salaries and Remuneration Commission.

Physical inspection carried out in September, 2024 indicated that only the superstructure works had been completed. Doors, windows and finishing works had not been started. In addition, the contractor was not on site and the Project had stalled for more than one year. Site security was not enhanced as evidenced by the presence of livestock in the structure leading to damages on the floor.

Further, despite an amount of Kshs.3,142,625 out of Kshs.6,285,250 being paid for electrical works, security system and firefighting appliances, had not been installed. Additionally, the two gates, two guard houses and four gazebos fully paid for in the two certificates issued had not been completed at the time of the inspection.

477.4 Inadequate Inspection of Roads Project

The County Executive awarded tenders for the construction of roads amounting to Kshs.169,859,258. However, review of the payment vouchers revealed that only

standard inspection sheets that are normally used for goods and services were used by the inspection and acceptance committee for the road projects. There were no documented predetermined standard inspection procedures issued to the inspection and acceptance committees to guide them on the inspection of the roads.

This was contrary to Section 150(3) of the Public Procurement and Asset Disposal Act, 2015 which states that where goods, works and services under Sub-Section (2), are of technical nature and the specifications were provided by a technical department or professionals engaged to work on behalf of the Accounting Officer, that technical department or professionals engaged to work on behalf of the Accounting Officer shall be responsible for confirming the right quality and quantity of goods, works or services have been delivered and issue a certificate to the recipient Accounting Officer.

477.5 Delayed Utilization of Maralal Municipality Retail Market

Management entered into a contract on 30 June, 2020 with a local company for the construction of a trade market in Maralal Municipality at a contractual amount of Kshs.53,981,760. The works were done over a period of twenty-four (24) months and the contract sum was paid in full.

The retail market remained unutilized and on 25 May, 2023, the County Executive entered into another contract with a different contractor for the completion of the Maralal retail market through addition of an extra floor at a contract sum of Kshs.20,000,000 and was completed in May, 2024.

Audit inspection conducted in September, 2024 revealed that the market remained unutilized. In addition, waterproofing of the flat roof was not done as per the Bill of Quantities as mastic asphalt was not applied. Further, the retail market site was covered with overgrown bushes, heaps of waste soil that the contractor had not disposed and dilapidated iron sheets securing the site that the contractor ought to have removed after erecting a masonry fence.

477.6 Irregular Implementation of Water Projects

Included in the expenditure on acquisition of assets totalling Kshs.233,838,868 in respect of construction and civil works out of which amounts of Kshs.37,725,094 and Kshs.49,954,293 was used for desilting of dams and drilling and equipping of boreholes respectively. Audit inspection revealed that the dams had not been excavated and expanded and the materials hauled to the dam embankments as per the Bill of Quantities. In addition, the dams had no signage erected for the projects. As a result, it was difficult to ascertain whether the works were carried out during the year under review.

Further, audit inspection revealed that drilling and equipping of Sere Eloikari and Ntepess boreholes at contract sums of Kshs.8,418,077 and Kshs.8,720,855 respectively, did not have Water Kiosks constructed as per the Bill of Quantities.

477.7 Irregular Procurement of Breeding Stock

During the year under review, the County Executive spent amounts of Kshs.75,600,000 and Kshs.55,800,000 for the purchase of camel and cattle breeds,

respectively. However, criteria used in identification of beneficiaries and report on need assessment and sustainability of the projects were not provided for audit.

Further, the distribution forms provided for audit review could not be verified as most were prepared by one clerk and the majority of the beneficiaries acknowledged receipt through thumbprints and some lacked contact details of the beneficiaries. This was contrary to Section 104 of the County Governments Act, 2012 which provides that a County Government shall plan for the County and no public funds shall be appropriated outside a planning framework developed by the County Executive Committee and approved by the County Assembly, and that to promote public participation, non-state actors shall be incorporated in the planning processes by all authorities.

477.8 Irregular Procurement of Mobile Phones and Laptops

The County Executive incurred an expenditure of Kshs.1,800,000 and Kshs.1,199,996 in respect of the purchase of mobile phones and laptops respectively all totaling Kshs.2,999,996. However, the requisitions list of beneficiaries for the mobile phones and laptops and evidence of market survey were not provided for audit. This was contrary to Section 149 (1)(a)(b) of the Public Finance Management Act, 2012 which states that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized and effective, efficient, economical and transparent.

In the circumstances, Management was in breach of the law and the value for money for the above expenditure could not be confirmed.

478. Unutilized Projects

The County Executive completed various projects at a cost of Kshs.57,371,296. However, an audit inspection carried out in September, 2024 revealed some projects that had not been put into use as detailed below:

Department	Project Cost (Kshs.)
Health	16,969,070
Sports and Youth Affairs	27,926,050
Livestock	7,481,316
Education	4,994,860
Total	57,371,296

This was contrary to Section 162(1) of the Public Procurement and Asset Disposal Act, 2015 which requires that an Accounting Officer of a procuring entity shall ensure that all assets are accounted for and put into proper use as intended by the procuring entity.

In the circumstances, the value for money on the expenditure amounting to Kshs.57,371,296 could not be confirmed.

479. Long Outstanding Imprests

The statement of assets and liabilities and Note 14 to the financial statements reflect outstanding imprest and advances balance of Kshs.39,270,626. The imprests had not been surrendered long after their due dates and Management had not made any progress in initiating recoveries. This was contrary to Regulation 93(6) of the Public Finance Management (County Governments) Regulations, 2015 which states that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

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

480. Irregular Commitments of Equalization Funds

The County Executive committed an amount of Kshs.566,090,060 through issuance of Local Purchase Orders (LPOs) for various infrastructural projects in the Water, Roads and Health departments financed through the Equalization Fund. However, at the time of the audit in September, 2024 the County had not received the equalization funds for the 2023/2024 financial year.

Further, review of the Project Implementation Status Report, revealed that the contractors had completed the works and had raised payment certificates which at the time of the audit had not been paid for lack of funding. This was contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015 which states that Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

481. Lack of Risk Management Policy

As previously reported, Management did not provide evidence of the existence of a Risk Management Policy to guide its management on risk management assessment and formulation of risk mitigation strategies in the year under review. This was contrary to Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies that include fraud prevention mechanisms and internal control that builds robust business operation.

In the circumstances, it was not possible to confirm whether the internal controls built within the financial and operational system were functional as intended.

482. Weaknesses in Internal Audit

Review of the staff establishment and the list of staff in the Internal Audit Department revealed that the Department has only two (2) active staff against the staff establishment of sixteen (16). The remaining staff had been seconded to other departments at the County Executive.

Further, during the year under review, the County Executive's Organizational Structure was not provided to ascertain the operational independence of the Internal Audit Unit which requires that the Head of Internal Audit reports functionally to the Audit Committee and administratively to the Accounting Officer. This was contrary to Regulation 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that The Head of Internal Audit Unit in a County Government entity shall enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

In the circumstances, existence of effective processes and systems of internal controls, risk Management and overall governance could not be confirmed.

COUNTY EXECUTIVE OF TRANS NZOIA – NO.26

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

483. Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.120,193,069 and as disclosed in Note 10 to the financial statements. However, the balances were not supported with certificates of bank balances. Further, the Trans Nzoia County Community Health Promoters bank account reflects Nil balance which was not supported with cashbooks, bank reconciliation statements, bank statements and board of survey reports.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.120,193,069 could not be confirmed

484. Inaccuracies in Exchequer Releases

The statement of receipts and payments reflects Exchequer releases amounting to Kshs.8,621,915,309 as disclosed in Note 1 to the financial statements. Included in the amount is Kshs.470,522,927 reported in the statement of receipts and disbursements for Receiver of Revenue - County Government of Trans Nzoia which reflects Own Source Revenue (OSR) amount of Kshs.470,522,927. However, review of revenue collections revealed that thirty (30) revenue streams had not been included in the respective revenue collection modules in the newly installed E-Rev automated revenue system. This was as a result of lack of a seamless changeover from the previous Zizi system to the new E-Rev system.

In the circumstances, the accuracy and completeness of own source revenue collected totalling Kshs.470,522,927 could not be confirmed.

485. Inaccuracies in Compensation of Employees

The statement of receipts and payments reflects compensation of employees amounting to Kshs.3,197,121,378 as disclosed in Note 2 to the financial statements. However, review of monthly payroll summaries revealed that payment of salaries amounting to Kshs.11,010,887 were made outside the Integrated Payroll and Personnel Database (IPPD) contrary to The National Treasury guidelines.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.11,010,887 could not be confirmed.

486. Unsupported Acquisition of Assets

The statement of receipts and payments reflects the acquisition of assets amounting to Kshs.985,908,443 as disclosed in Note 8 to the financial statements. The amount includes an amount of Kshs.17,281,841 being the final payment to a contractor brought forward from previous years as a pending bill in respect of a contract for the upgrading of Kiminini Township roads. The contract which was signed on 13 January, 2021 was funded by the Kenya Roads Board at a contract sum of Kshs.42,884,504.

However, the payment was not supported with a certificate of measured works showing how the amounts in the summary of the statement for payment on accounts were arrived at.

In the circumstances, the accuracy and completeness of the acquisition of assets amount of Kshs.17,281,841 could not be confirmed.

Emphasis of Matter

487. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget and actual on comparable basis of Kshs.10,185,156,069 and of Kshs.8,621,913,309 resulting in under-funding of Kshs.1,563,240,760 or 15% of the budget. However, the County Executive spent an amount of Kshs.8,748,084,293 against actual receipts amount of Kshs.8,621,915,309 resulting in over-utilization of Kshs.126,168,984 of the actual receipts.

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

488. Pending Accounts Payables

Note 1 on Other Disclosures to the financial statements reflects pending accounts payables balance of Kshs.1,371,609,319, comprised of Kshs.641,244,901 for construction of buildings and civil works, Kshs.507,881,305 on supply of goods and Kshs.222,483,113 on services which were not paid during the year under review but were carried forward to 2024/2025 financial year. Failure to settle bills during the year in which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of these matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

489. Non-Submission of Financial Statements for Audit

The following nine (9) hospitals in the County of Trans Nzoia that were labelled as Level 4 hospitals did not submit their financial statements for audit for the year ended 30 June, 2024.

- i) Bikeke Hospital
- ii) Endebess Hospital
- iii) Kapsara Hospital
- iv) Kwanza Hospital
- v) Matunda Hospital
- vi) Mt. Elgon Hospital
- vii) Saboti Sub-County Hospital
- viii) Tulweti Hospital

ix) Wamalwa Kijana Hospital

This was contrary to the Public Sector Accounting Standards Board (PSASB) circular of May, 2022 which issued guidelines and templates to be used for preparation of financial statements and reporting by Level 4 and Level 5 hospitals.

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

490. Irregular Termination of the County Revenue Collection System

Review of contract documents revealed that Management terminated the contract for a revenue collection system in January, 2024 about three (3) years from the date of signing the contract on 15 March, 2021. The contract was valid for a period of five (5) years from the contract date. Subsequently, a new company was contracted to provide revenue collection services. However, the County Executive did not provide a written termination letter together with the handover report for audit. Further, the previous vendor ceased operations with the County Executive without handing over data and other relevant information belonging to the County Executive contrary to Clause 15.2 of the agreement which states that on expiry or termination of this agreement each party shall immediately return to the other all the property or materials containing confidential information belonging to the other.

In the circumstances, the confidentiality of data and possible cases of litigations could not be confirmed.

491. Compensation of Employees

The statement of receipts and payables reflects compensation of employees amount of Kshs.3,197,121,378 as disclosed in Note 2 to the financial statements. Review of the payroll and human resource records revealed the following anomalies;

491.1 Non-Compliance with the Law on Fiscal Responsibility on Wage Bills

The compensation of employees balance of Kshs.3,197,121,378 accounts for approximately 37% of the total revenue of Kshs.8,621,915,309. This was contrary to the provisions of Regulation 25(1)(a) and (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's total revenue.

491.2 Irregular Hiring of Temporary Employees

Review of the human resource records revealed that the County Executive hired a total of five hundred and seventy-five (575) casuals in various departments. However, the casuals were engaged for a continuous period of more than twelve (12) months. Further, the recruitment of casuals was not supported with approval by the County Public Service Board. This was contrary to Section 37(3) of the Employment Act, 2007 and Part B16 of the County Public Human Resource Manual, 2013 which require that casual workers shall be engaged only on urgent short-term tasks with the approval of the County Public Service Board and that they shall not be engaged for more than three (3) months.

491.3 Non-Remittance of Statutory Dues

Analysis of the payroll data revealed statutory deductions were withheld from that staff salaries inform of Pay As You Earn (PAYE) amounting to Kshs.530,700,799, National Social Security Fund (NSSF) amounting to Kshs.343,282,390 and National Hospital Insurance Fund (NHIF) amount of Kshs.49,661,383, all totalling Kshs.923,644,572. However, no evidence was provided for audit to confirm that the deductions were remitted to relevant authorities as required. Failure to remit statutory deductions on time contravenes the Income Tax Act, National Hospital Insurance Fund Act and the National Social Security Fund Act which may result in fines and penalties.

491.4 Irregular Recruitment of New Staff

Review of staff records revealed that the County Public Service Board recruited a total of two hundred and fifty-eight (258) officers into various positions in the County. However, there was no evidence of vacancy declaration for the positions and Management did not provide an approved staff establishment to guide on the number of staff and the cadres the entity is authorized to have. This was contrary to Section B.5(2) of the County Public Service Human Resource Manual, 2013 which requires that all vacancies must be declared including the number of vacancies and whether the vacancies are within the authorized establishment.

491.5 Non-Compliance with One-Third Rule of Basic Salary

Review of monthly payroll records revealed that various employees of the County Executive received net salaries which were less than a third of their respective basic salaries while others received negative salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deductions that may be made by an employer from the wages of his employee at any given time shall not exceed two-thirds of such wages.

491.6 Non-Compliance with the Law on Staff Ethnic Composition

Review of the Integrated Personnel and Payroll Database (IPPD) and other human resource records revealed that out of three thousand, six hundred and eighty-six (3,686) employees, one thousand, nine hundred and fifty-eight (1,958) or 53% were from the dominant community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one-third of its staff from the same ethnic community. Further, out of the two hundred and fifty-eight (258) new employees, one hundred and sixty-one (161) or 62% were from the dominant community in the County contrary to Section 65(c) of the County Governments Act, 2012 on thirty percent of vacant posts at entry level are filled by candidates who are not from the domanian ethnic community in the County.

491.7 Non-Compliance with Law on Persons with Disabilities Reservations

Review of the payroll records revealed that only fifty-one (51) employees out of the three thousand, six hundred and eighty-six (3,686) total employees of the County Executive were categorized as persons with disabilities. They constituted 1.4% of the total employees. This was contrary to Section 13 of the Persons with Disabilities Act, 2013 which provides a reservation of five percent (5%) of all casual, emergency and

contractual positions in employment in the public and private sectors for persons with disabilities.

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

492. Non-Compliance with Effective Citizen Participation in Budgeting

During the financial year under review, the County Executive budgeted to spend Kshs.8,019,306,556 on both recurrent and development expenditures. However, there was no evidence of public participation in various stages for both budgeting and implementation. Further, there was no evidence to confirm that there was public participation in the development of the Annual Development Plans (ADP), the Finance Act, the Budget Policy Statement (BPS) and County Fiscal Strategy Paper and Quarterly Reports. This was contrary to Section 91(C) of the County Governments Act, 2012 which provides that the County Government shall facilitate the establishment of structures for citizen including budget preparation and validation fora.

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

493. Irregular Award of Legal Services

Review of legal records revealed that the Office of the County Attorney engaged law firms through direct tendering to handle twenty-four (24) cases in the financial year under review. Out of the thirty-six (36) prequalified law firms, only seven (7) were contracted to handle these cases while the rest were not considered. This was contrary to Section 103(1) of the Public Procurement and Asset Disposal Act, 2015 which provides conditions under which direct procurement method may be used.

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

494. Avoidable Expenditure on Interest Payments

Review of legal records revealed that the County Executive was ordered by the court to pay a sum of Kshs.3,322,533 and accrued rent of Kshs.150,950 to a plaintiff who had filed a suit claiming for rent for office space occupied by the Department for Gender on 25 May, 2021. However, due to delays in settling the payment, the amount had increased by Ksh.943,241 resulting in additional expenditure in accrued interest which would have been avoided had the County Executive settled the amount as ordered.

In the circumstances, Management failed to observe prudent management of public resources leading to avoidable wastage of public resources.

495. Poor Implementation of School Feeding Program

Review of contract records revealed that the County Executive awarded a local supplier tender for the supply of 200ml long-life milk for the school feeding program to all ECDE centers in the County at a contract amount of Kshs.63,875,000 on 28 February, 2024. The supplier was required to supply a total of 1,750,000 packets of milk but only supplied 185,451 packets of milk all totalling Kshs.6,768,962 which is equivalent to 10% of the expected packets and the program was then stopped due to

the supplier's inability to supply the whole consignment. There was no evidence that the contract had been terminated or action taken against the supplier by Management by invoking or demanding payment of Kshs.6,387,500 or 10% of the contract price from the bank that guaranteed the supplier due to non-performance of the contract.

In the circumstances, the objective of providing children with milk to maintain them in the classroom could not be confirmed.

496. Incomplete Construction of the County's Headquarters

The County Executive awarded a local contractor, a contract to construct the Trans Nzoia County Headquarters at a contract sum of Kshs.498,835,545 on 29 June, 2023 for a period of fifty-six (56) weeks. As previously reported, the tender evaluation committee did not conduct due diligence to confirm the qualifications of the contractor contrary to Section 83(1) of the Public Procurement and Asset Disposal Act, 2015. Physical inspection carried out on 9 September, 2024 revealed that a signboard costing Kshs.250,000 was not erected in the construction site as indicated in the Bill of Quantities. The project had reached the sixth floor and construction on the helipad was ongoing and was approximately 63% complete. However, the interim certificates of completion and site minutes were not provided for audit.

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

497. Construction of Tom Mboya Mother and Child Hospital

497.1 Incomplete Construction of Main Works

The County Executive awarded a contract for the construction of Mother and Child Hospital at Tom Mboya Dispensary, Kitale Town at a contract sum of Kshs.101,613,650 with the commencement date of 26 April, 2023 for a period of 252 days (9 months) with an expected completion date of 13 February, 2024. The progress works reports of May, 2024 indicated that the construction was 76% complete. However, physical inspection of the project done in September, 2024 confirmed that the project was not yet complete despite the expected completion date of 13 February, 2024 having elapsed without any approved extension.

Further, the contractor was not on site while the entrance gate and sentry work, painting (road marking paint), landscaping, stormwater drain channel, a ten (10) cubic meter capacity elevated water tank, secondary storage water tanks, water distribution, sewerage, soil drainage systems, sanitary fittings and electric power supply works had not been done.

497.2 Incomplete Construction of External Ancillary Works

Review of contract records revealed that the County Executive awarded a contract for the construction of external ancillary works at Tom Mboya Mother and Child Hospital in Trans Nzoia at a contract sum of Kshs.41,322,418. The commencement date was 20 June, 2023 and the completion period was thirty-six (36) weeks or nine (9) months. As at the time of audit in September, 2024 the contractor had been paid a total of Kshs.32,730,332. However, a physical inspection of the project in September, 2024

revealed that the works were not complete and the contractor was not on site. Further, there was no evidence that the contractor had been held liable for the delay as specified in the special conditions of the contract and it was not explained if and when the construction will be completed.

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

498. Delayed Completion of Construction of County Aggregation and Industrial Park

Review of contract records revealed that the County Executive awarded tender for the construction of the County Aggregation and Industrial Park at Namandala in Kwanza Sub-County at a contract sum of Kshs.499,166,766 during the year under review. As at 30 June, 2024, the contractor had been paid a total of Kshs.264,253,915. However, review of the tender and project files revealed that there was no title deed for the 100-acre parcel of land where the project was being undertaken. Further, physical inspection carried out on 10 September, 2024 revealed that the project was incomplete with some materials on site, although the contractor was not on site.

In the circumstances, value for money on the expenditure incurred on the project and the ownership of the land could not be confirmed.

499. Irregularities in the Construction of Mitume Fresh Produce Market

Review of records revealed that the County Executive through the Department of Trade, Commerce and Industry awarded a contract on 27 April, 2023 for the construction of the Mitume fresh produce market at a contract sum of Kshs.4,799,000 through request for quotations in the 2022-2023 financial year. However, the title deed or allotment letter for the land on which the fresh produce market was built was not provided for audit.

Further, physical inspection of the project conducted on 12 September, 2024 revealed that the stalls had no ventilation hence not fit for storage of the market produce while only one coat of paint that was applied had worn off while the toilets had their taps and sinks vandalized. In addition, the market shade had not been handed over and was not in use.

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

500. Delayed Completion of the Construction of a Multi-Storey Business Complex

Review of contracts' records revealed that the County Executive through the Department of Trade and Industrialization awarded a contract for the construction of a multi-storey business complex in Kitale town at a contract sum of Kshs.874,280,383 during the 2017/2018 financial year. The multi-year project contract was signed on 25 June, 2018 with a contract period of seven hundred and thirty-one (731) days and the expected completion date of 10 June, 2021. However, the following anomalies were noted;

- i) The contractor has requested seven (7) times for extension of the contract period through the consultant and project, but there was no evidence of subsequent approvals and site meeting minutes conducted by project implementation team.
- ii) The Memorandum of Understanding on the co-funding between the Municipality, and the Department of Trade and Lands was not provided for audit.
- iii) No ownership documents for the land the business complex was built on such as a title deed were provided for audit.
- iv) Physical inspection carried out on 10 September, 2024 revealed that the contractor was not on site and the project had stalled at 92% completion level.

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

501. Slow implementation of Rehabilitation and Modernization of Kenyatta Stadium

Review of contract records revealed that the County Executive contracted a firm for the rehabilitation and modernization of Kenyatta Stadium Phase 1A in Kitale at a contract sum of Kshs.657,305,895 on 31 January, 2023 for seven hundred and fifty-eight (758) days until 28 February, 2025. Physical inspection carried out in of September, 2024 revealed that the project construction works were ongoing and 84% of the contract period had been utilized. The contractor had been paid a total of Kshs.326,497,930 which is equivalent to 49.6% of the contract amount with an amount of Kshs.235,451,629 paid in the year under review. However, the construction of the stadium was behind schedule attributed to a boundary dispute which had delayed the construction of the boundary fence.

In the circumstances, the slow pace of implementation may affect project quality, completion and hence value for money may not be obtained.

502. Stalled Construction of Trans Nzoia Teaching and Referral Hospital

As previously reported the County Executive planned to construct the proposed Trans Nzoia Teaching and Referral Hospital at a contract sum of Kshs.1,602,528,713. The contract awarded to a construction firm was to be implemented in two (2) phases, with estimated completion period of Phase 1 – fifty-two (52) weeks and Phase 2 – sixty-two (62) weeks. The 350-bed facility was aimed at providing specialized medical services to the public. According to the records provided for audit, Phase 1 of the project was completed on 23 July, 2016.

Phase 2 of the project commenced on 15 December, 2018 with projected completion date of 30 September, 2020. However, a physical inspection in September, 2024, revealed that the project was incomplete and was approximated at 90% complete even though Kshs.1,577,689,119 (Approx. 98% of the contract amount) had been paid. The contractor was not on site implying that the project could have stalled. Further, the Hospital was in use without a certificate of occupation from public health hence endangering the lives of patients.

In the circumstances, value for money on the expenditure amount of Kshs.1,577,689,119 incurred on the project could not be confirmed.

503. Poor Implementation of the Matumbei - Kimothoni Water Project in Matumbei Ward

Review of contract records revealed that the construction contract for the Matumbei - Kimothoni water project was awarded to a contractor on 6 June, 2023 at a contract sum of Kshs.7,726,500. However, physical inspection of the project in September, 2024 revealed that the pipelines did not distribute water to the residents, with some areas lacking access to the water entirely. Further, leakages were noted in sections of the extended pipeline and the water was made available on a rationed basis.

In the circumstances, the value for money on the expenditure of Kshs.7,726,500 incurred on the project could not be confirmed.

504. Unused Early Childhood Development Education Classrooms

Review of contract records revealed that the County Executive through the Department of Education constructed various Early Childhood Development Education (ECDE) classrooms in primary schools of each ward. However, physical inspection carried out on 10 September, 2024 on six (6) sampled classrooms revealed that although the classrooms were complete, they were not in use. Further, the classrooms lacked emergency exits contrary to the requirement of criteria 6 of the first Schedule of Early Childhood Education Act, 2021.

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

505. Poor Implementation of the Pipeline Extension at Kokwo - Khalwenge Water Project

Review of project records revealed that the contract for the pipeline extension for the Kokwo-Khalwenge Water Project in Endebess Ward was awarded to a contractor at a contract sum of Kshs.19,699,900. Physical inspection of the project in September, 2024 revealed that the pipelines did not distribute water evenly to the residents with some areas lacking access to the water entirely and that the water was made available on a rationed basis.

In the circumstances, the value for money on the expenditure of Kshs.19,699,900 incurred on the project could not be confirmed.

506. Poor Implementation of Pipeline Extension and Stalled Borehole at Mitume Usafi Estate

Review of contract records revealed that the contract for pipeline extension at Mitume Usafi Estate in Tuwan Ward was awarded to a local firm at a contract sum of Kshs.2,499,916. Physical inspection of the project in September, 2024 revealed that the pipelines did not equally distribute water to the residents with some areas not having access to the water from the project at all and that the water from the project

was available on a rationing basis. Further, the water pressure at the designated water kiosk was very low and only available for one (1) to two (2) hours during the day.

In addition, there was a stalled adjacent project for the drilling and equipping of a borehole at Mitume Usafi Estate. The project was undertaken in the 2022/2023 financial year. However, the project file was not provided for audit and therefore, it was not possible to determine who the contractor was, the project cost, the project duration or the nature of work that was to be undertaken. Physical inspection revealed that the project had stalled and was not in use. Also, the contractor had abandoned the project while the solar panels installed had been vandalized.

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

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

Basis for Conclusion

507. Inefficiencies in the New County Revenue Software Collection System

During the year under review, Management entered into an agreement with a vendor for the supply, delivery, development, installation, deployment, testing and maintenance of a fully automated and integrated county revenue collection and debt management system at a contract sum of Kshs.26,968,080. However, Management did not provide contract agreements between the County Executive and two (2) commercial banks for audit. Further, in January, 2024 no revenue was collected as a result of lack of seamless changeover from the old to the new revenue system.

In the circumstances, the effectiveness of the internal controls and reliability of the new system could not be confirmed.

508. Lack of Risk Management Policy

During the year under review, the County Executive did not have a Risk Management Policy or strategy in place. This was contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations, 2015 which provides that the Accounting Officer shall ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanisms and risk management and internal control that builds robust business operations. In the circumstances, Management may not identify individual risks, significance areas, likelihood of occurrence of identified risks and the appropriate control measures to be undertaken.

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

509. Lack of Fixed Assets Register

Annex 6 on the summary of non-current assets register reflects a non-current assets balance of Kshs.14,973,306,886 which includes buildings and structures; transport equipment; office equipment, furniture and fittings; machinery and equipment; and

infrastructure assets. However, the summary was not supported with a fixed assets register showing each asset category and individual assets with such details as serial number, registration number, date of purchase, cost, location and tagging number.

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

510. Unrecorded Purchases of Land

The Department of Lands, Housing and Physical Planning acquired nine (9) parcels of land costing Kshs.17,925,000 during the year under review. However, the acquired parcels were not recorded as the Department did not have a fixed assets register which contains information such as the Land Reference Number (LR Number), acquisition costs, opening balances at the start of the year, disposals and the closing balances at the end of the year. Further, no title deeds for the parcels of land were provided for audit.

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

511. Lack of Management Responses to Internal Audit Reports

Review of Audit Committee minutes and the audit reports submitted to various Departments in the County Executive revealed a lack of Management responses. No explanation was provided for the failure of Management to respond to various reports issued by the internal auditor.

In the circumstances, the effectiveness of the internal audit function and governance structure of the County Executive could not be confirmed.

COUNTY EXECUTIVE OF UASIN GISHU– NO.27

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

512. Variances Between Financial Statements Balances and IFMIS Reports

Reconciliation of the amounts reflected in the statement of receipts and payments revealed differences with the amounts reflected in the Integrated Financial Management Information System (IFMIS) ledger balances as detailed below:

	Financial Statements Amounts (Kshs.)	Amounts in IFMIS Reports (Kshs.)	Variances (Kshs.)
Receipts			
Receipts	9,709,129,531	10,260,805,404	551,675,873
Payments			
Use of Goods and Services	1,961,400,843	1,962,773,408	1,372,565
Transfers to Other Government Units	554,884,279	658,817,171	103,932,892
Other Grants and Transfers	573,456,190	346,101,716	227,354,474
Acquisition of Assets	1,760,938,195	1,857,938,194.95	97,000,000
Finance Costs, including Loan Interest	76,270	52,904,702	52,828,432
Other Payments	52,904,702	26,424,187	26,480,515

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

513. Domestic and Travel Subsistence

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,961,400,843 which as disclosed in Note 4 to the financial statements includes domestic, travel and subsistence balance of Kshs.183,184,591. However, there were irregularities were noted in the management of the imprest issued to officers in different departments as follows:

513.1 Unsupported Imprest Issued for Training

The domestic, travel and subsistence balance of Kshs.183,184,591 includes an amount of Kshs.3,890,720 from the Department of Livestock. The Department undertook an unspecified programme to train farmers in various Wards within Uasin Gishu County. An imprest amount of Kshs.471,600 was issued for the training. However, criteria for identification of the participating farmers for the training, their telephone contacts and means of transport while going to or from the trainings were not provided for audit.

513.2 Unsupported Imprest for Medical Activities

The domestic, travel and subsistence amount of Kshs.183,184,591 includes an amount of Kshs.5,152,130 from the Department of Health. The domestic, travel and subsistence expenses related to medical camps, receiving and distributing drugs from KEMSA, supervision of health facilities and NHIF sensitization. However, payment vouchers amounting to Kshs.3,909,700 were not provided for audit.

513.3 Unsupported Imprest Issued to Department of Roads

The domestic, travel and subsistence amount of Kshs.183,184,591 also includes an amount of Kshs.17,288,408 incurred by the Department of Roads. However, sampled payment vouchers amounting to Kshs.1,095,740 were not provided for audit.

In the circumstances, the occurrence, accuracy and completeness of domestic travel and subsistence amounting to Kshs.6,719,470 could not be confirmed.

514. Unsupported Health Expenses for Commissioning of Mama Rachel Maternity Hospital

The statement of receipts and payments reflects use of goods and services amount of Ksh.1,961,400,843 and as disclosed in Note 4 to the financial statements which includes other operating expenses amount of Kshs.354,407,404. The amount includes Health Department expenses amounting to Kshs.16,402,542 out of which payments totalling Kshs.5,465,500 relating to the commissioning of Mama Rachel Maternity Hospital were not supported.

In the circumstances, the accuracy and completeness of the other operating expenses amounting to Kshs.5,465,500 could not be confirmed.

515. Unsupported Fuel, Oil and Lubricants

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,961,400,843 which, as disclosed in Note 4 to the financial statements includes fuel, oil and lubricants amount of Kshs.177,043,731. Review of expenditure records revealed that the Roads Department spent an amount of Kshs.74,251,377 on fuel, oil and lubricants. However, the daily work tickets indicating fuel purchases and usage, as well as detailed orders and supplier fuel statements showing how the fuel was utilized by the Roads Department were not provided for audit. Further, the department did not provide a list of vehicles maintained or assigned to track fuel usage were not provided for audit. In addition, there was no independent fuel register maintained by the department.

In the circumstances, the accuracy and completeness of the fuel amounting to Kshs.177,043,731 could not be confirmed.

516. Unsupported and Misclassified Expenditure on Foreign Travel

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,961,400,843 as disclosed in Note 4 to the financial statements which includes foreign travel and subsistence allowances amount of Kshs.11,447,682. However, out

of the total of Kshs.11,447,682, an amount of Kshs.7,843,246 was not properly supported with documentation.

Further, included in the foreign travel and subsistence amount of Kshs.11,447,682 is expenditure of Kshs.3,139,886 that relates to domestic and subsistence allowances which was charged to the foreign travel vote account. As a result, the foreign travel and subsistence expenses have been overstated, while the domestic travel and subsistence allowances were understated by the same amount.

In the circumstances, the accuracy and completeness of foreign travel and subsistence expenditure of Kshs.11,447,682 could not be confirmed.

517. Anomalies in Pending Bills

Note 19 on other important disclosures reflects pending accounts payables totalling Kshs.642,153,876. Review of records relating to pending bills revealed the following anomalies;

- i. Note 19(1) reflects pending accounts payables balance of Kshs.642,153,876. However, the corresponding Annex 2 to the financial statements revealed an outstanding balance of only Kshs.9,082,944 as at 30 June, 2024 leading to an unexplained variance of Kshs.633,070,932.
- ii. Annex 4 to the financial statements reflects other pending payables amount of Kshs.41,465,948, owed to third parties. However, there was no breakdown or supporting documentation for this amount.
- iii. The total pending bills increased from Kshs.279,025,598 in the prior year to Kshs.707,393,356 in the current year, an increase of Kshs.428,367,750, which was not explained.
- iv. Analysis of pending payments revealed an amount of Kshs.31,340,000 for the acquisition of various parcels of land supported by invoices was due for payment was excluded from the list of pending bills as at 30 June, 2024.
- v. Management did not provide an aging analysis for the pending bills to determine prioritize debt settlement.
- vi. Pending bills amounting to Kshs.22,907,356 carried forward from the 2022-2023 financial year remained unpaid, despite the County Executive incurring other expenses. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires that debt service payments form a first charge on the County Revenue Fund and the Accounting Officer to ensure that the County Government does not default on debt obligations.

In the circumstances, the accuracy and completeness of pending bills balance of Kshs.707,393,356 could not be confirmed.

Emphasis of Matter

518. 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 amounts of Kshs.13,286,616,749 and Kshs.9,709,129,531 respectively, resulting in an under-funding of Kshs.3,577,487,218 or 27% of the budget. However, the County Executive spent an amount of Kshs.9,164,762,310 against the actual receipts amount of Kshs.9,709,129,531 resulting in under-absorption of Kshs.544,367,221 or 6% of the actual receipts.

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

My opinion is not modified in respect of this matter.

Other Matter

519. Unresolved Prior Years Audit Matters

In the audit report of the previous year, various issues were raised under the Report on the Financial Statements, the Report on Lawfulness and Effectiveness in the use of Public Resources and the Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the prior year issues remain unresolved as at 30 June, 2024 and no satisfactory reasons were given for the delay in solving the prior year's matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

520. Compensation of Employees

Review of the human resources records revealed the following anomalies:

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

The Integrated Payroll and Personnel Database (IPPD) as at 30 June, 2024 revealed that the County Executive had employed a total of four thousand, six hundred and thirty-nine (4,639) employees out of whom four thousand and one (4,001) or 86% of the total members of staff were from the dominant community in the County contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one-third of its staff from the same ethnic community.

520.2 Irregularities in Recruitment of Employees

The County Executive, through its Service Board, recruited one hundred and eighty-one (181) staff members comprising eight (8) directors, eleven (11) clerks, nine (9)

cleaners, twenty-five (25) ECDE teachers and other officers effective 1 September, 2023. However, the following anomalies were noted during the recruitment process:

- i) Out of the one hundred and eighty-one (181) recruits, one hundred and-sixty-seven (167) or 92% were from the dominant community in the County contrary to Section 65(1)(e) of the County Government Act, 2012 which requires that at least thirty percent of the vacant posts at entry level be filled by candidates from other ethnic communities.
- ii) No human capital plan or recruitment plan was provided for audit to justify the recruitment contrary to Regulation 119(2) of the Public Finance Management (County Governments) Regulations, 2015 on budgetary allocation and human capital plan.
- iii) None of the appointed staff underwent induction within the first three months contrary to Section H.6 of the Public Service Human Resource Manual, May, 2016.
- iv) There was no evidence to confirm that the filled posts were derived from authorized staff establishment gaps contrary to Section B.5(2) of the County Public Service Human Resource Manual, May, 2016 which requires all vacancies to be declared in a prescribed format.
- v) The County Public Service Board did not maintain records of advertisement, shortlisting, interview criteria, or attendance register contrary to Section 68 of the County Governments Act, 2012.

520.3 Irregular Payment of Special House Allowance

The statement of receipts and payments reflects compensation of employees amounting to Kshs.4,261,101,832 as disclosed in Note 3 to the financial statements. The amount includes a special house allowance processed through IPPD system totalling Kshs.5,793,756. Review of the personal files of the staff members who received special house allowances revealed that the only authorized housing benefit was the rental house allowance. Therefore, the additional payment for the special house allowance resulted in duplicate payments for benefits that had already been compensated to their terms of engagement. This was contrary to Paragraph 2.3 of the Salaries and Remuneration Commission (SRC) circular REF: SRC 027/08/2015, which outlines the allowances policy guidelines for the public service issued in October, 2021.

520.4 Irregular Payment of Acting Allowance

The amount of Kshs.4,261,101,832 includes acting allowance processed through the IPPD system totalling Kshs.1,760,000. However, five (5) members of staff acted for more than six (6) months and earned allowances amounting to Kshs.1,005,864 contrary to Section C.14(1) of the Public Service Human Resource Manual, May, 2016.

520.5 Non-Compliance with a Third Rule on Salary Deductions

Analysis of the Integrated Payroll and Personnel Database (IPPD) data for the year ended 30 June, 2024 revealed that seven hundred and sixty-four (764) members of staff received a net salary below one-third of their basic salaries. This was contrary to Section 19(3) of Employment Act, 2007 which states that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

520.6 Payment of Early Childhood Development Education Teachers Outside IPPD

Review of personnel records revealed that an amount of Kshs.29,956,721 was paid to permanent and pensionable Early Childhood Development Education, ECDE teachers who had been in service since 2022. However, the amount was paid outside the Integrated Payroll and Personal Data (IPPD) system contrary to the National Treasury Circular No.13/2019 which states that personnel emoluments payments should be processed through the IPPD system.

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

521. Procurement of Staff Insurance Covers

521.1 Irregular Procurement of Employee Insurance Covers

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,961,400,843 which as disclosed in Note 4 to the financial statements includes insurance costs amount of Kshs.297,390,753. Review of insurance records provided for audit revealed that the County Executive paid an amount of Kshs.36,952,233 to two (2) insurance companies for the provision of insurance policies to County Executive employees. However, the following anomalies were observed:

- (i) The contract between one of the insurance companies and the County Executive for the Work Injury Benefits Act (WIBA) Policy was signed on 16 November, 2023. However, no claims were compensated by the time of the audit in September, 2024 even though claims were reported in March, 2024.
- (ii) The executed insurance policy document for one of the insurance companies was not provided for audit.
- (iii) Other supporting documents like the pending claims were also not provided for audit.

521.2 Unsupported Payment of Staff Medical Insurance Cover

The compensation of employees balance of Kshs.1,961,400,843 includes insurance costs amount of Kshs.297,390,753 for medical insurance. The County Executive entered into a contract with a local insurance company for the provision of staff medical insurance for two years starting 12 July, 2022 at a contract sum of Kshs.435,644,666. Review of records provided for audit revealed that the County Executive made a

payment of Kshs.216,000,000. However, review of the records revealed the following anomalies;

- i. Clause 6 of the contract indicated that the scheme was intended to cover two thousand, nine hundred and four (2,904) members of staff and their dependents. However, Management did not provide details of the staff members.
- ii. Further, the County Executive staff payrolls revealed that the total staff was four thousand, six hundred and seventy-five (4,675) employees however, only two thousand nine hundred and four (2,904) or 62% were covered. Further, Management did not provide evidence on how the two thousand nine hundred and four (2,904) staff members were identified and selected.
- iii. No details for the approved hospitals and medical facilities under the scheme were not provided for audit.
- iv. Clause 6 of the contract further states that, for any additional employees, the calculation for extra payments shall be agreed upon by the parties and done on a pro-rata basis. There was no evidence that 205 newly recruited staff were insured or included in premium payments. However, there was no evidence that two hundred and five (205) newly recruited staff were insured or included in the premium payments.

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

522. Anomalies in Information Communication Technology Equipment

The ICT Department initiated a project to establish a data hub or cybercafés at the Sub-County offices. Desktops and servers of undetermined value were procured and delivered to Moiben Sub-County offices. Physical inspection of the assets at these offices revealed that a room had been set aside containing some desktop monitors. However, the following observations were made;

- i. There was no representative from either the ICT Department or an officer from the Sub-County office in charge of the equipment in the room.
- ii. The monitors, desktop and server equipment were not tagged or labelled.
- iii. The cost or value of the monitors, desktop and server equipment could not be determined.
- iv. None of the items were operational and had not been used for over two (2) years since their acquisition. Therefore, it was not possible to assess whether the equipment was still in good working condition.

In the circumstances, the value for money for the idle equipment and the objectives of the project could not be confirmed.

523. Failure to Adhere to the Danida Funds Agreement

The County Executive received the DANIDA grants in 2021-2022 and 2022-2023 financial years on 11 July, 2023 in two tranches amounting to Kshs.7,012,500 and Kshs.5,453,554 respectively all totalling Kshs.12,412,500. The County Executive

disbursed the 2022-2023 tranche amount of Kshs.5,453,554 to one hundred and twenty-four (124) facilities on 27 November, 2023. Review of the DANIDA Funds Agreement revealed non-compliance with the Donor Bilateral Agreement as listed below;

523.1 Late Disbursement of Funds to the Qualifying Health Facilities

Out of the one hundred and twenty-four (124) facilities, eight (8) did not receive their share of the DANIDA grants totalling Kshs.267,551. Further, on 17 June, 2024, the County Executive disbursed the tranche for 2021-2022 financial year amounting to Kshs.7,012,500 to the same one hundred and twenty-four (124) facilities. However, twenty (20) facilities did not receive their allocated funds amounting to Kshs.1,005,802. No explanation was provided for the delays in disbursing the funds or for failure to distribute funds to all the qualifying health facilities. This was contrary to Part 5(1) of the Donor Bilateral Agreement with the Implementing Partner which stipulates that conditional grants must be disbursed by Counties to eligible health facilities within twenty-five (25) working days after receipt from The National Treasury.

523.2 Failure to Disburse Funds to the Facilities

The County Executive received an amount of Kshs.11,550,000 on 10 July, 2024 being 2023-2024 DANIDA counterpart funds tranche which was disbursed to one hundred and one (101) facilities on 15 July, 2024. However, the County Executive did not replenish the County's equitable share as per the financing agreement neither did the Accounting Officer disclose whether the amount had been set aside or budgeted for to cover the counterpart facilities. Further, out of the one hundred and twenty-four (124) eligible facilities, twenty-three (23) facilities did not receive their allocated donor funding totalling Kshs.1,623,096. Management did not explain the non-disbursement of funds to the twenty-three (23) facilities.

523.3 Outstanding Balances not Disbursed

Review of bank account records provided for audit revealed that the DANIDA Central Bank of Kenya Special Purpose Account (SPA) had a balance of Kshs.2,896,449 accruing to the financial years 2021-2022, 2022-2023 and 2023-2024 and due to various facilities as shown below:

Grant Year	No of Facilities	Amount Pending (Kshs)
2021-2022	8	267,551
2022-2023	20	1,005,802
2023-2024	23	1,623,096
Total		2,896,449

The balance amount of Kshs.2,896,449 had not been disbursed to the facilities as at the time of audit in September, 2024. Further, the eight (8) facilities which had not received the 2021-2022 disbursement did not also receive the 2022-2023 and 2023-2024 disbursements and no explanation was provided for the anomaly.

523.4 Failure to Prepare Facility Quarterly Returns

According to donor bilateral agreement, health care facilities are required to make returns to the donor on receipts and expenditure on a quarterly basis. However, the returns for health care facilities were not provided for audit. In addition, bank confirmation certificates for the health care facilities were also not provided for audit.

In the circumstances, Management was in breach of the Donor Bilateral Agreement.

524. Irregular Outsourcing of Consultancy Services

The statement of receipts and payments reflects use of goods and services amount of Ksh.1,961,400,843 as disclosed in Note 4 to the financial statements which includes other operating expenses amount of Kshs.354,407,404 out of which an amount of Kshs.5,933,304 relates to operating expenses for the Lands Department. Review of the operations within the Lands and Physical Planning Department revealed that the Department hired three (3) consultancy firms to provide unspecified consultancy services totalling Kshs.5,058,354. However, it was not clear why these consultancy services were necessary, considering that the Department has staff with competencies in human resource skills who could have performed these tasks as part of their regular duties.

In the circumstances, the value for money on the amount of Kshs.5,058,354 spent on consultancy services could not be confirmed.

525. Anomalies in Construction of Hospitals and Health Centres

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes the construction of buildings amount of Kshs.678,830,346. However, a physical inspection of the sampled hospital buildings revealed the following anomalies:

525.1 Ziwa Sub-County Hospital

The County Executive entered into a contract with a local contractor on 16 May, 2023 for the erection and completion of Theatre Block and Post Natal Block at a contract amount of Kshs.14,599,635 for a contract period of thirty-six (36) weeks. The County Executive paid an amount of Kshs.4,094,735 on 05 October, 2023 bringing the total payments under the contract to Kshs.12,287,201 as at 30 June, 2024, approximately 84% of the contract sum. However, physical inspection carried out in November, 2024 revealed that the construction had stalled. Although the structure was roofed, finishing work was not completed. The contractor was not on site, the project was approximately 80% complete and the original project timeline had lapsed without any evidence of a contract extension.

525.2 Turbo Health Centre

The County Executive entered into a contract with a local contractor on 12 April, 2023 for the construction of a Model Sub County Hospital at Turbo Health Centre. The facilities included the Outpatient Department (OPD) Block, Maternity Block, Family Planning Block, Antenatal Natal Clinic (ANC) Block, Dental Block, Incinerator, Kitchen, Laundry, Morgue, Chapel and External Works at Turbo Health Centre, with a contract amount of Kshs.705,710,330 with a contract duration of one hundred and forty-four

(144) weeks. The third Inspection and Acceptance Certificate dated 13 February, 2024 stated that excavation and foundation layout in the morgue and chapel was ongoing. However, physical inspection conducted in November, 2024 revealed that the excavation was completed and work had returned to the main building. The County Executive paid an amount of Kshs.35,842,853 on 31 May, 2024 bringing the total payments made under the contract as at 30 June, 2024 to Kshs.111,140,043.75 or approximately 16% of the contract sum. Despite the contractor being on site, the main building block was only about 20% complete and the project timeline had lapsed.

525.3 Ziwa Level (V) Hospital

The County Executive signed a contract with a local contractor on 02 January, 2020 for the construction of Ziwa Level (V) Hospital in Uasin Gishu. The contract amount of Kshs.806,562,179 with a contract period of two (2) years, intended for completion by 2 January, 2022. The County Executive paid an amount of Kshs.49,232,009 on 26 June, 2024 bringing the total payments made under the contract as at 30 June, 2024 to Kshs.311,445,626 or approximately 39% of the contract sum.

However, physical inspection in November, 2024 revealed that the construction had stalled at the roofing level, the contractor was not on site, the work was approximately 60% complete, the project timeline had lapsed and there was no evidence of contract extension.

525.4 Renovation of Uasin Gishu District Hospital

The County Executive entered into a contract with a local company on 17 July, 2023 for the renovation of Uasin Gishu County Hospital and the construction of hospital pharmacy waiting bay and civil works, at a contract amount of Kshs.26,360,890 for a contract period of twelve (12) weeks from the date of site handing over. However, the following anomalies were noted:

- (i) The Bill of Quantities contained project management expenses for the Department of Roads, Transport and Public Works, Uasin Gishu County Officers, with a provision of Ksh.1,500,000, that was not accounted for in the Bill of Quantities.
- (ii) The Bill of Quantities specified the use of pre-painted galvanized corrugated iron sheets gauge 26 and manufactured by a specific company or an approved equal but gauge 28 iron sheets were used in the gatehouse.
- (iii) The Bill of Quantities provided for 50mm thick precast concrete paving slabs (size 600mm x 600mm) around the building-bedded and jointed in cement and sand (1:4) mortar laid on and including 50mm thick sand bed including anti-termite treatment but these were not installed.
- (iv) The Bill of Quantities included provisions for rainwater collection fixtures, which were not installed.
- (v) The Bill of Quantities provided for rubber door stoppers complete with a 38mm raw bolt which were also not installed.

In the circumstances, value for money spent on construction of the Hospital projects could not be confirmed.

526. Irregularities in Construction of Civil Works Road Projects

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes construction of roads amount of Kshs.436,924,025. Physical inspection of the roads constructed revealed the following anomalies;

- (i) The contracts executed between the County Executive and contractors did not specify the total length and width of the roads to be built.
- (ii) The County Executive did not provide evidence that both the County engineers supervising the civil works projects and the contractors were registered and licensed by the Engineering Board of Kenya as required by the Engineers Act, 2011.
- (iii) Some roads were constructed without drainage provisions on the sides or the drainage was poorly executed leading to flooding during rainy seasons. This was despite the fact that most of the roads were known to be prone to water clogging or that were swampy in wet weather. Although box culverts were installed in several locations, insufficient channelling after the installation caused some of the culverts to become flooded and clogged, resulting in visible water damage to constructed roads.
- (iv) The road construction contracts included items such as supervisory fees, prime costs, engineers miscellaneous accounts for inspectors and tallying clerks. However, the purpose and usage of these amounts were not adequately explained.
- (v) The contracts did not indicate the individual and cumulative road distances to be covered and there was ambiguous demarcation of starting and ending points.
- (vi) The County Executive entered into a contract, with a local company on 3 March, 2022 for the construction of Kipsano-Cheptabach footbridge in Cheptiret/Megun Ward in Uasin Gishu County at a contract amount of Kshs.2,993,653. The Inspection and Acceptance Committee in a report dated 16 November, 2022, confirmed that the works were 100% complete and recommended payment to the contractor. The Chief Officer approved the payment for the contract sum on 30 June, 2023. However, a physical inspection conducted during the audit in November, 2024 revealed that the project was incomplete and not in usable state. The constructed footbridge was unusable due to structural defects, improper alignment, and lack of accessibility, rendering it incapable of serving its intended purpose for pedestrian use.

This was contrary to Regulation 132(1) of the Public Finance Management (County Government) Regulations, 2015 which states that the Accounting Officer of a County Government entity shall 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.

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

527. Irregularities in Rehabilitation of Civil Works

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes rehabilitation of civil works amount of Kshs.23,498,675. Review of sampled payment vouchers and other supporting documents revealed the following anomalies:

- (i) The projects were not identified through public participation process as the projects could not be traced directly to the public participation reports.
- (ii) Purchase orders were not issued to suppliers contrary to Section 106(5) of the Public Procurement and Asset Disposal Act, 2015 which states that the procuring entity shall place a purchase order with the person submitting the successful quotation and the person submitting the successful quotation shall confirm the purchase order in writing.
- (iii) The unsuccessful bidders were not notified as the copies of regret letters were not stamped "received" by the unsuccessful bidders.
- (iv) The project handover certificates from the contractor were not provided for audit.
- (v) The projects did not have publicity sign boards as specified in the priced Bill of Quantities.

In the circumstances, value for money spent on rehabilitation of civil works could not be confirmed.

528. Irregularities in Construction and Civil Works

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,760,938,195 which as disclosed in Note 9 to the financial statements includes construction and civil works amount of Kshs.224,502,120. However, review of sampled payment vouchers and other supporting documents revealed the following anomalies;

- i. The expenditure was not supported with evidence of identification through public participation process as the projects could not be traced directly to the public participation reports.
- ii. The procuring entity did not place a purchase order with the successful bidders as required by the law.
- iii. Payments amounting to Kshs.15,658,565 made to four (4) local companies comprising of supply and delivery of assorted tools amount of Kshs.2,883,800, supply and delivery of assorted personal protective items amount of Kshs.1,189,800, and beatification of arboretum amount of Kshs.7,544,965 were not related to construction and civil works.

- iv. An amount of Kshs.2,763,890 was incurred towards renovation works at Uasin Gishu Teachers Advisory Center (TAC). However, physical inspection carried out at the time of audit in November, 2024 revealed leakages on ceiling boards of both renovated buildings at TAC center and the newly constructed abolition block. Further, paving slabs had not been laid around the ablution block as specified by the Bill of Quantities.
- v. Project handover certificates and minutes were not provided for audit.
- vi. Projects did not have publicity sign boards as specified in the priced Bill of Quantities.
- vii. A physical inspection of renovation works of the fire station at Maili Nane at the time of audit in November, 2024 revealed that user requisition and professional opinion were not supported by indicative market prices/market survey, the procuring entity did not place a purchase order with the successful bidder, there was no project signboard, the storage store and site office were not constructed. Hoarding was not provided, clothing cubes for lady's washrooms were not fabricated, three coats of exterior emulsion paint to external walls was not done, water cistern was not fixed all provided in the Bills of Quantities. Further, there were visible leakages on the roof, works on external toilets incomplete and the contractor was not on the site at the time of physical inspection.

In the circumstances, Management was in breach of the law, and value for money on the civil works could not be confirmed.

529. Prolonged Delays in Upgrading of 64 Stadium

The statement of receipts and payments reflects acquisition of assets amount Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes construction and civil works amount of Kshs.224,502,120, out of which an amount of Kshs.65,761,727 was paid to a contractor for upgrading of 64 – Stadium in Eldoret Municipality. An advertisement for the upgrading of the stadium was published on 30 October, 2020, but the first tender was non-responsive. A second advertisement on 21 January, 2021 indicated that the bidders were non-responsive yet again. An advertisement was placed in the local dailies again on 28 January, 2021, which led to seven (7) bidders responding. The tender was evaluated and the tender was awarded to a local company on 21 February, 2021 for Kshs.1,163,563,925, with a contract signed on 9 April, 2021 with a contract period of sixty (60) weeks commencing immediately upon site handover on 14 June, 2021 and expected end date of 9 August, 2022. A physical inspection of the project in August, 2024 revealed the following anomalies;

- i. The contractor was on site although no activity was going on.
- ii. The football pitch grass was drying due to lack of water.
- iii. The electricity lines were not relocated.

- iv. The contractor requested extension, in a letter dated 25 July, 2022 and the Inspection and Acceptance Committee met on 8 August, 2022 and approved the extension for another nine (9) months till May, 2023. However, no performance bond was provided for audit to cover for the contract extension.
- v. On 4 May, 2023 the contractor requested for another extension and Inspection and Acceptance Committee approved it on 8 May, 2023 for another nine (9) months until March, 2024. Similarly, no performance bond was provided for audit to cover for these contract extensions.
- vi. The contractor's request for an eighteen (18) months extension on 29 February, 2024, was approved by the Municipality Manager through a letter dated 8 March, 2024, despite not complying with Regulation 132(2)(b) of Public Procurement and Asset Disposal Regulations, 2020 which requires an evaluation committee for any variations. Further neither of the extensions was forwarded to the Public Procurement Regulatory Authority as per Section 139(5) of the Public Procurement and Asset Disposal Act, 2015.
- vii. There was no evidence provided by the Project Implementation Committee on the Contract Management Plan that was to provide for review meetings, a risk register maintained to monitor all identified contract risks and their mitigation plan and a status report that include; executive summary report on performance of activities and budget and any other issues relevant to the contract such as environmental and general observation on the performance rating.
- viii. At the time of the physical inspection in October, 2024, the project had delayed by over two (2) years, with only 70% completion according to Inspection and Acceptance Committee report dated 14 June, 2024. Since then, the contractor has ceased work citing delays in processing the last payment certificate raised on 31 May, 2024.
- ix. Payments totalling Kshs.663,428,347 has been made leaving an outstanding balance of Kshs.500,135,578.

In the circumstances, the objectives of the project have not been realized and value for money incurred on the project could not be confirmed.

530. Irregularities in Procurement of Mobile Phone and Laptop

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes purchase of office furniture and general equipment amount of Kshs.39,965,206. Included in the amount is a mobile phone model Samsung S23 Ultra and a Macbook laptop computer that was procured by the Department of ICT at a cost of Kshs.430,000 from a local supplier. However, physical verification of the ICT equipment procurement revealed the following issues;

- (i) Only the mobile phone was provided for physical inspection.
- (ii) The supplier informed the Chief Officer ICT and E-Government in a letter dated 23 May, 2023 that they were unable to supply the MacBook M1 512gb due its

unavailability in the country. The Company requested permission to supply the MacBook M1 256gb instead.

- (iii) The Chief Officer ICT and E-Government directed the Inspection and Acceptance team to accept the revised MacBook M1 256gb from the local supplier. However, this was contrary to Section 176(1)(d) of the Public Procurement and Asset Disposal Act, 2015 which prohibits undue influence or pressure on any member of an opening committee evaluation committee and disposal committee or on any employee or agent of a procuring entity or including the Accounting Officer, to favour a particular tenderer. It was also not clear why the other bidders were not contacted and why the Evaluation Committee was not reconstituted. Further, the directives issued to the Inspection and Acceptance Committee point to a Management overreach that contravenes the provisions of the Public Procurement and Asset Disposal Act, 2015.

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

531. Irregular Extension of Consultancy Services in the Upgrading of 64 - Stadium

In 2020/2021 financial year, the County Executive advertised for consultancy services for the Upgrading of 64-Stadium in the Municipality of Eldoret. The contract was awarded to a local company and was signed on 23 April, 2021 at a contract price of Kshs.56,800,000 for a contract period of sixty (60) weeks with an expected contract end date of July, 2022. The contract was extended twice: first until 9 May, 2023 and then until March, 2024. However, the following anomalies were observed;

- (i) The contract extensions were made without the necessary recommendations from the Evaluation Committee, contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015, which states that amendment or a variation to a contract resulting from a procurement proceeding is effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity.
- (ii) The extensions exceeded thirty (30) days and was not limited to one as required by Section 88(3) of the same Act.
- (iii) As at the time of audit in September, 2024, the total contract period had reached 76 weeks, surpassing the original sixty (60) weeks period.
- (iv) No justification was provided for the extensions was provided, given that the contract was terminated on 19 March, 2024 before the project completion and immediately after the second extension which ended on 9 March, 2024.
- (v) The termination of the consultancy services occurred after the contract expired on 9 March, 2024.
- (vi) As at the time of the audit in September, 2024 the Works (Upgrading of 64 Stadium for the Municipality of Eldoret) was still on progress without the supervision of a consultant.

- (vii) Clause No.4 of the contract on deliveries provides that during the consultancy contract period the consultant was expected to prepare stakeholder reports as part of the deliveries. However, records provided for audit indicated that the latest report prepared by the consultant was dated 18 January, 2022 and was received on 13 January, 2022. The contract between the consultancy and the County Executive did not state if the reports would be periodic reports or on a given the level of completion of works by the main contractor.

In the circumstances, Management was in breach of the law and value for money on the acquired consultancy services could not be confirmed.

532. Anomalies in Acquisition of Land

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes acquisition of land amount of Kshs.119,750,000. During the year under review, the County Executive purchased ten (10) parcels of land at a cost of Kshs.129,150,000. Review of records and other supporting documents relating to the acquisition of land revealed the following anomalies:

- (i) No evidence of registration of all the parcels of land in favour of the County Executive.
was provided for audit.
- (ii) During physical inspection of the parcels of land, the owners and private individuals were still using the parcels, for private gainful economic activities.
- (iii) Land mutation forms for all the ten (10) parcels purchased were not provided for audit. It was not possible to determine whether the owners of the parcels had released the forms to the County Executive.
- (iv) Public participation minutes identifying the projects as priority needs by the public were not provided for audit.
- (v) All requisitions by the user department were not accompanied by feasibility studies, surveys and reports; environmental and social impact assessment reports and reasonable expected date of delivery.
- (vi) No evidence was provided to confirm that the estimated value of the parcels of land as recorded in user department requisition and professional opinion were realistic and based on the prevailing rates for the areas where the various parcels of land are located.
- (vii) The procurement method used for all land purchases was open tendering. However, no evidence was provided showing that the County Executive advertised the tenders for land purchase in the dedicated Government tender's portal; in its own website, or in at least one daily newspaper with national circulation. There were inconsistencies in the number of bids received as recorded in the professional opinion, tender opening minutes and tender evaluation minutes for all the ten (10) parcels of land.

- (viii) Official search for all the parcels of land purchased by the County Executive was done after execution of the sale agreement implying due diligence was not carried out before transactions.
- (ix) Management of the County Executive had not yet processed the title deeds for all the parcels of land purchased during the year under audit, implying that the legal ownership of the parcels was in doubt.
- (x) All the parcels of land purchased were not demarcated to differentiate the actual portion purchased by the County Executive and the portion still belonging to the original owners. In addition, the parcels of land purchased for the purpose of link roads were not supported by maps indicating the said parcels are public roads.
- (xi) The County Executive acquired two (2) additional parcels of land, which were inadvertently omitted from the financial statements even though the parcels of land were acquired and paid for during the year under review.

In the circumstances, the regularity and value for money incurred on the purchase of land could not be confirmed.

533. Stalled Construction of Chebororwa Agricultural Training Centre Produce Stores

The statement of receipts and payments reflects acquisition of assets amount Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes construction of buildings amount of Kshs.678,830,346. Review of records provided for audit revealed that a contract was signed between the County Executive and a local company on 8 May, 2023 for the construction of Chebororwa ATC produce stores in Uasin Gishu County at a contract sum of Kshs.4,890,000 for a contract period of sixteen (16) weeks with expected project completion date of 27 August, 2023. The first Inspection and acceptance certificate was issued on 19 June, 2023, the project was estimated at 46% complete. Subsequently, a payment of Kshs.2,252,510 was made on 17 October, 2023. However, as at the time of audit in October, 2024, the project was not complete. In addition, there was no evidence to indicate that the contractor had requested for extension of the contract. Physical inspection in October, 2024 revealed that a few construction materials were on site, even though the contractor was not on site and the project had stalled.

Management explained that the contractor was served with two notices of slow progress and failed to respond to both of them with the contract period of sixteen (16) weeks ending on 27 August, 2023 without a request for an extension. However, no evidence was provided to indicate that any steps had been taken towards termination of the project.

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

534. Irregularities in Issuance of Certificates of Completion

The statement of receipts and payments reflects acquisition of assets amount Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes

construction and civil works amount of Kshs.224,502,120. Review of contract records provided for audit revealed that the County Executive entered into a contract with a local company on 16 May, 2023 for civil works in Huruma Sub-County Hospital in Uasin Gishu County at a contract sum of Kshs.4,995,325 for a contract period of sixteen (16) weeks. The first inspection and acceptance certificate of the works was issued on 9 June, 2023, four (4) days after the first certificate of completion was issued on 05 June, 2023.

Further, the County Executive also entered into a contract with a local company on 24 May, 2023 for power distribution at the West Maternity Hospital in Uasin Gishu County at a contract sum of Kshs.2,398,200 for a contract period of four (4) weeks. The Inspection and Acceptance of the works was done on 28 June, 2023 one day after the issue of first and final payment certificate on 27 June, 2023. This was contrary to Section 48(3) and (4) of the Public Procurement and Asset Disposal Act, 2015 which requires that the inspection and acceptance committee inspects goods, works or services immediately after delivery and ensure that they meet the technical standards defined in the contract and issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

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

535. Anomalies in Equipping the County Call Centre

The statement of receipts and payments reflects acquisition of assets amount Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes purchase of office furniture and general equipment amount of Kshs.39,965,206. Included in the amount is Kshs.3,783,800 paid to a local company by the County Executive through the Department of ICT being the final payment for the supply, delivery, installation, testing and commissioning of the County Call Centre. However, review and physical inspection of the County Call Centre revealed the following anomalies;

- i. The local company supplied desktops, computers, laptops, telephones, headphones, storage servers, 6KVA UPSs and one 2KVA UPS. However, the serial numbers to these items were not indicated in the S13 form and in the delivery note. The Inspection and Acceptance Committee in their verification of the items did not also indicate the serial numbers.
- ii. The specifications of the six (6) desktop computers at the Call Centre differ from those in the terms of reference.
- iii. The switchboard was acquired from the Public Service Management Department where it was previously used internally by the County Executive. The switchboard runs on an old OS (Windows 7), while other equipment runs on Windows 11 casting doubt on its compatibility and ability to operate efficiently.
- iv. The headphones delivered as per the Delivery Note were ten (10) but a physical count showed only nine (9) which were still kept in boxes. No explanation was given for the missing headphone and for the delay in issuing the headphones to the call centre.

- v. Despite the indications from the County Executive that the Call Centre was fully furnished, staffed and operational, only the ICT support was found in the Call Centre raising doubts as to the operationalization of the Call Center.
- vi. The laptops had been redistributed within the Department. However, no distribution schedule was provided for audit and it is not clear why the purpose of the laptops was changed yet the function for which they were acquired was not yet achieved. The existence of the laptops could not be confirmed.
- vii. The Call Center was to host six (6) attendants and a switchboard operator. Six (6) computers had been procured. However, the County Executive procured another ten (10) laptops and ten (10) headphones. No proper explanation was given for the excess purchase of laptops resulting to wasteful expenditure.

In the circumstances, value for money on the items purchased could not be confirmed.

536. Irregularities in the Purchase of Certified Seeds

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,760,938,195 as disclosed in Note 9 to the financial statements which includes the purchase of certified seeds, breeding stock and live animals amount of Kshs.45,392,480. Review of records provided for audit revealed that an amount of Kshs.17,440,814 was incurred on the procurement of coffee and avocado seedlings. However, the following issues were noted;

- i. There was no report on user needs or feasibility studies to determine the viability of the proposed agricultural projects within the County.
- ii. There were no elaborate criteria to identify the beneficiaries of the project or evidence provided to show that the delivered coffee and avocado seedlings were subsequently issued to the intended beneficiaries.
- iii. Payments for the supplies were not supported with delivery notes, store counter receipt vouchers, store issue records and valid nursery phytosanitary inspection certificates.
- iv. Contract awards on the purchase of certified seeds were not reported to the Public Procurement Regulatory Authority as prescribed to confirm the quality of the items supplied contrary to Section 138(2) of the Public Procurement and Asset Disposal Act, 2015.
- v. There was no evidence that monitoring and evaluation had been subsequently undertaken by the County Agricultural Officers to assess the progress and provide assurance on the success of the projects.

In the circumstances, Management was in breach of the law and the purchase of coffee and avocado seedlings could not be confirmed.

537. Avoidable Legal Expenditure

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,961,400,843 as disclosed in Note 4 to the financial statements which includes

other operating expenses amount of Kshs.354,407,404 out of which an amount of Kshs.25,597,138 relates to legal expenses. Review of records relating to legal expenses revealed that the County Executive engaged the services of external advocates to represent them in various legal matters and paid an amount of Kshs.22,206,199 in legal fees. This was despite the County Executive having a fully established Office of the County Attorney tasked with representing the County Executive in court or in any other legal proceedings. Further, the County Executive had an approved staff establishment of forty-two (42) employees. As at the time of the audit in November, 2024 the office of the County Attorney had a total of ten (10) employees. This was contrary to Section 22(1) of the Office of the County Attorney Act which states that there shall be such officers and other members of staff of the Office as the County Attorney, in consultation with the County Public Service Board, as it considers necessary for the proper and efficient discharge of the functions of the Office.

In the circumstances, the value for money on legal expenses amounting to Kshs.22,206,199 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

538. Lack of Operational Secondary Power Backup

Review of the business operation environment including ICT revealed that the County Executive did not have in place an operational secondary power backup alongside the national electricity grid during the year under review. This resulted to multiple instances where the staff remained unproductive for long periods whenever there were power blackouts affecting both the County Headquarters and Sub-County offices. At the time of audit in September, 2024, the secondary power back-up had not been established.

In the circumstances, the efficiency and effectiveness of service delivery could not be confirmed.

539. Control Weaknesses in Assets Management

Annex 6 to the financial statements reflects a summary of the fixed assets register which reflects the historical total costs of assets amount of Kshs.19,022,209,371. The amount consists of historical costs of assets of Kshs.17,261,271,176 and additions during the year of Kshs.1,760,938,195. However, a comprehensive asset register detailing the assets that the County Executive owned and/or were in their control and their values were not provided for audit.

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

540. Deficiencies in Human Resource Management

Review of the human resource records revealed that Management did not establish a code of conduct for its employees. Further, the County Executive did not have in place a Human Resources Policy and Procedures Manual. Management explained that the County Human Resources Policy and Procedure Manual was still in the development process and once it is completed and approved, the manual will be operationalized. The County was utilizing the Public Service Management Human Resource Policy and Procedures Manual, of May, 2016. Failure to develop and establish the employees' code of conduct, human resources policy and procedures manual was contrary to Regulation 158 of (1) Public Finance Management (County Governments) Regulations, 2015 which requires that the County Government entity develops risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control that builds robust business operations.

In the circumstances, the County Executive's effectiveness of risk management and internal control environment could not be confirmed.

541. Weaknesses in Information Communication Technology (ICT) Internal Control Environment

Review of the County Executive ICT environment revealed that four (4) systems are in operation within the County Executive. However, the systems have not been integrated or interfaced with each other neither has Management ensured interoperability to facilitate a common shared database and better service delivery in executing the County Executive mandate. Interoperability across systems minimizes the risk of over-dependence on vendors and vendor lock-in. The Unstructured Supplementary Service Data (USSD) usage and maintenance is managed directly by the vendor without any formal service level agreement or patent ownership rights. These omissions may expose the County Executive to disruption of operations in the event the vendor discontinues its services or locks the system due to disputes.

Further, on the use of personal email addresses for official Government business, about 30% of employees have been set up on the County Mail System, but some were still using personal emails for official Government business despite being provided with official email addresses. The other 70% of the County Government employees who have not been set up on the County Mail System continue transacting official business through their emails. This was contrary to the Head of Public Service circular Ref: SH/ADM 23(1) dated 14 June, 2022 Government ICT standards, 2019 prescribing that all Ministries, Counties, Departments and Agencies (MCDAs) shall acquire and ensure appropriate use and management of E-mail and Instant messaging applications.

In addition, the County Executive's ICT and Innovation Department did not carry out audit of all software and applications contrary to Section 6.2.4.6 of Government ICT Standards Systems and Applications Standard Second Edition 2019 ICTA.62:2019 which states that MCDAs shall ensure that all software and applications are audited annually to ensure they conform with information security standard. These standards define MCDAs as Ministries, Counties, Department and Agencies.

In the circumstances, the security, reliability and integrity of the County Executive's data including the management of information system could not be confirmed.

542. Lack of Risk Management Policy

Review of risk management policy documents revealed that the County Executive did not have in place IT Strategic and Steering Committee, approved ICT Policy, Business Continuity Plan, Disaster Recovery Policy, ICT Security Policy and procedures and operational power backup.

In the circumstances, the existence of effective measures for risk management could not be confirmed.

543. Deficiencies in Operations of Audit Committee and Internal Audit

Review of the audit committee and internal audit operations revealed the following significant deficiencies undermining their effectiveness;

- i. The Head of Internal Audit did not conduct self-assessments or performance reviews of the Department contrary to Regulation 159(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that each year, the head of the internal audit unit shall assess its effectiveness through an internal performance appraisal.
- ii. The Audit Committee did not publish an annual report on the independence, performance, and competence of the internal audit unit, contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015.
- iii. The Audit Committee and the Internal Audit Department did not undergo professional external assessments of their effectiveness by a professionally recognized body or institution within the past three years contrary to Regulation 159(3) of the Public Finance Management (County Governments) Regulations, 2015.
- iv. The County Executive did not provide responses or action plans for the implementation of audit recommendations contrary to Regulation 165(1) of the Public Finance Management (County Governments) Regulations, 2015.
- v. Management had not developed policies, guidelines, or capacity-building initiatives for the Audit Committee contrary to Regulation 175 of the Public Finance Management (County Governments) Regulations, 2015.
- vi. The personal files of Audit Committee members were not provided for audit, hence it was not possible to determine whether the members possessed the relevant qualifications, experience, attitudes and skills-set required for oversight of the County Executive and met the requirements of Chapter Six of the Constitution.
- vii. The County Executive appointed Audit Committee comprising of three (3) members in 2016 and all the three Audit Committee Members who had been appointed and were in office during the first term had their appointments renewed in November, 2021. This contravened Regulation 170(2) of Public Finance Management (County Governments) Regulations, 2015 which requires that after expiry of every term, at least one third of the Committee to retire and not be eligible for reappointment.

- viii. There was also no evidence to show that performance evaluations were conducted for the Audit Committee Members or the Head of the Internal Audit contrary to the provisions of Gazette Notice Vol. CXVILTI—No.40 on Audit Committee Guidelines for County Governments of 15 April, 2016 on annual self-assessment of the audit committee performance.
- ix. The Audit Committee failed to fulfill its critical oversight responsibilities, including monitoring the internal financial controls of the County Executive, reviewing the effectiveness of the internal audit function, and failing to issue the required periodic and annual reports.
- x. Further, the internal audit is a Directorate in the Finance and Economic Planning Department in line with Regulation 156 of Public Finance Management (County Governments) Regulations, 2015 which states that the County Head of Internal Audit Services shall be an office in the County Treasury. The approved staff establishment of the County Executive provides that the county Head of the Internal Audit should be the Director of Risk Management, Compliance and Audit. However, the internal audit department has been operating without a substantive head of the department since the year 2017. The Assistant Director of Internal Audit, who is hierarchy wise, in job group P headed the department and reports to the Chief Officer, finance, who is in job group S. The level of seniority of the Head of Internal Audit Services in the County does not give the authority to effectively perform his or her duties, Management is therefore in a position to exert undue influence on the Internal Audit Department.
- xi. In addition, both the Internal Audit Unit and the Audit Committee lacked independent budgets or authority to incur expenditures. This deprives the head of the Internal Audit unit and the Audit Committee of operational independence, in contravention of Regulation 155 of Public Finance Management (County Governments) Regulations, 2015 which gives the Head of the Internal Audit unit in a County Government entity operational independence by requiring the Head of Internal Audit unit to report administratively to the Accounting Officer and functionally to the Audit Committee.

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

544. Lack of Updated Register for Information Communication Technology Assets

Review of records revealed that the Information Communication Technology (ICT) asset register was not maintained properly as it lacked key information, such as acquisitions, location, condition, obsolete, unserviceable damaged or lost ICT equipment. Further, the County Executive procured five (5) laptop computers and a tablet at a cost of Kshs.1,679,995 from a local supplier which were not provided for physical verification.

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

COUNTY EXECUTIVE OF ELGEYO/MARAKWET – NO.28

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

545. Variances Between Financial Statements and IFMIS Records

The statement of receipts and payments reflects total payments amounting to Kshs.4,649,608,582. However, the balances differed with the Integrated Financial Management Information Systems (IFMIS) ledger balances as detailed below;

Description	Financial statement Amounts (Kshs.)	Amounts as per IFMIS Records (Kshs.)	Variance (Kshs.)
Basic Salaries-Permanent Employees	1,558,476,819	1,540,516,997	27,959,822
Basic Wages-Temporary Employees	164,035,741	163,446,220	589,521
Personal Allowances paid as part of salary	600,467,004	595,767,756	4,699,248
Personal Allowances paid as Reimbursements	907,199	815,786	91,413
Utilities, Supplies	12,487,238	12,411,756	75,482
Communication, Supplies and Services	4,402,664	4,239,764	162,900
Training Expenses	20,230,496	20,085,496	145,000
Insurance Costs	17,505,940	16,249,773	1,256,167
Specialized Materials and Supplies	137,824,618	137,184,218	640,400
Office & General Supplies	13,034,074	13,079,074	(45,000)
Fuel, Oil and Lubricants	58,944,183	58,512,113	432,070
Other Operating Expenses	12,272,498	12,149,698	122,800
Routine Maintenance Vehicles	14,770,771	14,719,871	50,900
Routine Maintenance Other Assets	29,584,865	27,738,101	1,846,764
Research, Feasibility Studies, Project Preparation and Design	12,102,061	12,002,061	100,000

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

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

546. Unsupported Health Facilities Operational Bank Balances

The financial statements under Other important disclosures in Note 10 (iv) to the financial statements under, disclosure of balances in revenue collection accounts discloses one hundred and twenty-nine (129) health facilities operational bank accounts with closing balance of Kshs.41,337,214. However, bank reconciliation

statements, certificates of bank balances and Board of Survey reports were not provided for review.

In the circumstances, the accuracy and completeness of health facilities operational bank account balance totalling Kshs.41,337,214 could not be confirmed.

547. Unsupported Pending Bills

During the year under review, the County disclosed pending bills amounting to Kshs.103,636,606 as compared to the previous year's balance of Kshs.18,647,689 resulting in an increase of Kshs.84,988,917 or 456% increase. Further, a review of the documentation provided revealed that pending bills amounting to Kshs.60,188,747 were not adequately supported.

Further, a review of the pending bills revealed that expenditures amounting to Kshs.2,119,722 had remained outstanding for more than twelve (12) months at the time of audit in spite of the County Government having received all the budgeted revenues as per the County Allocation of Revenue Act, 2018. No satisfactory explanation was given why the bills did not form first charge as stipulated by Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the accuracy of the pending bill balance of Kshs.103,636,606 as at 30 June, 2024 could not be confirmed.

548. Unsupported Expenditure on Legal Services

The statement of receipts and expenditure reflects use of goods and services balance of Kshs.541,673,720 which excludes an amount of Kshs.2,730,778 being payment for legal services. However, an audit review of legal services documents revealed that the law firm was paid without approval from the Executive Committee in regard to outsourcing of legal services. The payments were not supported by itemized fee notes and the respective status of cases handled.

Further, the payments were not supported by requisite documents including the contract agreements, fee notes and evidence of Court session attendance, rates applied in line with the advocate remuneration roll and a case file for each of the cases.

In the circumstances, the regularity of the legal fees of Kshs.2,730,778 could not be confirmed.

Emphasis of Matter

549. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects an approved final budgeted receipts of Kshs.5,820,971,067 against actual receipts of Kshs.4,522,701,628 resulting to under-funding of Kshs.1,298,269,439 or 22% of the budget.

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

My opinion is not modified in respect of this matter.

Other Matter

550. Unresolved Prior Year Audit Matters

Review of the progress on follow up of the prior year auditor's recommendations revealed that 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 which remained unresolved as at 30 June, 2024. This was contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require Accounting Officers designated for County Government entities to try to resolve any issues resulting from an audit that remain outstanding.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

551. Failure to Establish a County Budget and Economic Forum

As previously reported, the County Government did not establish a County Budget and Economic Forum. This contravenes Section 137 of the Public Finance and Management Act, 2012 which states that as soon as practicable after the commencement of this Act, a county government shall establish a forum to be known as the Elgeyo/Marakwet County Budget and Economic Forum.

The purpose of this forum is to provide a means for consultation by the County Government on preparation of County Plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the county; and matters relating to budgeting, the economy and financial management at the county level.

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

552. Excessive Budgetary Allocation to the County Assembly

Audit review of budget documents revealed that the County Assembly of Elgeyo Marakwet was allocated Kshs.706,848,845 which was equivalent to 15.6% of the County Government's total revenue of Kshs.4,522,701,628, instead of Kshs.316,589,114 or 7% of the County's total revenue. The excess allocation of Kshs.390,259,731 or 8.6% was contrary to the provisions of Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which states that the approved expenditure of a County Assembly shall not exceed seven 7% per cent of the total revenue of the County Government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

553. Failure to Operationalize the Office of the County Attorney

During the year under review, the County Government had not constituted the Office of the County Attorney contrary to Section 4(1) of the Office of the County Attorney Act, 2020 which require each county to establish office of the County Attorney who should be appointed by the Governor with the approval of the County Assembly.

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

554. Failure to Adhere to the National Cohesion and Integration Act, 2008

Review of IPPD records revealed that the County Executive had a total of 1563 employees as at 30 June 2024, out of whom 1479 or 95% were from the local dominant ethnic community. In addition, the County Government recruited twenty-four (24) employees during the year under review and all were from the local dominant ethnic community an indication that the Management was not making any effort to bridge the existing ethnic gap. This contravenes Section 7(2) of the National Cohesion and Integration Act, 200; which stipulates that no public establishment should employ more than one-third of its staff from the same ethnic community and Section 65(1)(e) of the County Government Act, 2012.

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

555. Non-submission of Financial Statements for Level 4 Hospitals

During the year under review, five (5) level 4 hospitals which were under the County Government namely Chesoi, Kamwosor, Kaptarakwa, Kocholwo and Tot Sub County Hospitals, did not submit financial statements for audit as per the requirements of Section 47 of the Public Audit Act, 2015 which requires management to submit the financial statements to the Auditor-General.

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

556. Conflict of Laws - The Elgeyo/Marakwet Equitable Development Act, 2015

Audit review of the budget making process and various contract management files for development projects revealed that County Government of Elgeyo Marakwet used its Equitable Development Act (EDA Act), 2015 in the management and implementation of development projects. However, review of the Equitable Development Act, 2015 revealed that some sections of the law were in conflict with various National laws on specification of tender awards to certain group of suppliers, public participation process, administration and project implementation and the project management process.

Further, it was noted from the sampled payments totalling to Kshs.20,730,000 that the County Executive used development funds to pay allowances to members of the Ward Development and Project Management Committees as per EDA Act, 2015. The EDA Act is an infringement of Article 191 of the Kenya Constitution 2010(1) which indicates that where there is conflicts between national and county legislation in respect of matters falling within the concurrent jurisdiction of both levels of Governments that under Sub Article (2) National legislation prevails over county legislation if the national

legislation applies uniformly throughout Kenya and any of the conditions specified in the clause. The Elgeyo/Marakwet County Equitable Development Act, 2015 is contrary to the Public Finance Management Act, 2012, the Public Procurement and Assets Disposal Act, 2015 and the Constitution of Kenya 2010.

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

557. Conflict of Interest by Members of County Assembly on the County Executive Functions

During the year under review, it was observed that the Members of County Assembly of Elgeyo/Marakwet County through the provisions of Section 17 of the Elgeyo Marakwet Equitable Development Act, 2015 were members of Ward Development Committees in their respective wards whose powers as stated in Section 19 included awarding tenders for ward-based contracts, monitoring and evaluating projects within the Ward and ensuring compliance with the contract terms. It was noted that the Members of County Assembly were involved in the executive functions contrary to the national law. This contravened Section 9(2) of the County Governments Act 2012 which states that a member of the County Assembly shall not be directly or indirectly be involved in the Executive functions of the County Government and its administration or delivery of services as if the member were an officer or employee of the County Government. The integrity, oversight and separation of powers between the County Executive and the County Assembly could not be confirmed.

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

558. Partial Funding of Projects

During the year under review, the County initiated and awarded various contracts totalling to Kshs.16,504,790 for projects that were not to be executed to completion with a justification that the projects were inadequately allocated funds as enabled by the Elgeyo Marakwet Equitable Development Act, 2015. This was contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015 which states that Accounting Officers shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

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

559. Non-Compliance with the Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects compensation of employee's payments amount of Kshs.2,492,554,613 equivalent to 55% of revenue of Kshs.4,522,701,628. The actual expenditure was in excess of the threshold of 35% prescribed in Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations 2015 which states that the limit set for the county government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act shall not exceed thirty-five percent (35%) of the County Government's total revenue.

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

560. Stalled Proposed Maintenance of Chepkerengoi Road in Sengwer Ward

As previously reported, a company was awarded a contract for maintenance of Chepkerengoi Road in Sengwer Ward at a contract sum of Kshs.2,400,000. The contract agreement was signed on 3 May, 2023 and works was expected to be completed within twelve (12) weeks commencing immediately upon signing of the agreement. However, the managerial reports and operational plan by the implementation team for the project were not provided for review contrary to Regulation 138(7) of the Public Procurement and Asset Disposal Regulations, 2020 which states that a review meeting, status report includes executive summary, reports on the performance of the activities and budget by the implementation team be done and forwarded to the accounting officer.

Physical verification of the project carried out in the month of September, 2024, being eighteen months (18) after the signing of the contract agreement, revealed that approximately 40% of the works had been done and the contractor was not on site. Management explained that the project was stopped due to a Court case.

In the circumstances, the public may not have obtained value for money.

561. Irregular Funding of National Government Functions

The statement of receipts and payments reflects under acquisition of assets balance of Kshs.966,312,994 which as disclosed in Note 9 of the financial statements includes an amount of Kshs.242,875,696 for rehabilitation of civil works which further include an amount of Kshs.8,576,440 for leveling and grading of fields in primary schools.

The funds were paid through the Department of Sports. However, the projects fall under the National Government functions as per Fourth Schedule of the Constitution of Kenya, 2010, which describes the functions of the National Government to include Universities, tertiary educational institutions, other institutions of research and higher learning and primary schools, secondary schools and special education institutions.

Further, there was no Memorandum of Understanding between the two levels of Government, enabling the County to undertake the development of projects in the schools. In addition, there were no confirmations from the respective institutions that they received the funds and utilized them for the intended purposes.

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

562. Irregular Payment of College Fees for Medical Training Students

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers balance of Kshs.122,547,911 which includes an expenditure amounting to Kshs.15,246,090 in respect of transfers to sports out of which a total of Kshs.14,599,500 was paid to Kenya Medical Training College (KMTC) as fees for nursing students in various colleges. It was however noted that the County had an already established education fund that was meant to issue bursaries to needy secondary school and college students.

Audit review of the list of bursaries issued during the year under review showed that KMTc students in Elgeyo/Marakwet were also sponsored under the County Bursary Fund. It was therefore not clear why the County through the Department of sports were duplicating a function that was already established by the Elgeyo/Marakwet County Education Fund Act, 2017.

In addition, Management did not provide evidence on how the vetting for the bursaries was done and no acknowledgements from the beneficiary colleges were obtained for the fee paid.

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

563. Anomalies in Projects Implementation

During the year under review the County Executive of Elgeyo Marakwet through various departments incurred a total of Kshs.966,312,994 in respect to acquisition of assets as reflected at Note 9 to the financial statements. Included in the acquisition are various projects that were sampled for audit verification in the financial year 2023/2024 amounting to Kshs.97,719,866 and from previous years' projects of Kshs.46,843,154 all totalling to Kshs.144,563,020 where value for money on projects was not realized as follows:

563.1 Completed Projects not in Use

Ten (10) projects implemented at a total cost of Kshs.29,976,650 were complete but not operational. The non-utilization was due to non-equipping of the facilities, delayed handover and non-connection to critical utilities such as water supply and drainages.

563.2 Completed Projects with Poor Workmanship

Four (4) projects worth Kshs.10,481,175 were complete but observed to have defects. These included poor fittings, poor quality finishes and surface deteriorations in the case of roads and floors.

563.3 Abandoned/Stalled Projects

Four (4) projects worth Kshs.81,754,463 were abandoned with the contractors not on site. Audit review also revealed that two (2) of the projects were not sufficiently funded.

563.4 Projects Without Ownership Documents

One (1) project implemented at a cost of Kshs.2,500,000 constructed a community land where ownership did not have ownership documents or a title deed. Further, a grader bought at a cost of Kshs.19,850,732 had no number plate nor log book hence ownership could not be confirmed. It was also noted that the windscreen was broken.

In the circumstances, the public may not have obtained value for money from the implementation of the projects amounting to Kshs.144,563,020.

564. Non-Adherence to One Third Pay Policy

Audit review of the Integrated Payroll and Personnel Database (IPPD) System revealed that some members of staff were earning net salaries that were less than one-third of their respective basis salaries as tabulated below:

Month	July 2023	Aug 2023	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	March 2024	April 2024	May 2024	June 2024
No. of officers below a third.	311	351	247	250	240	17	216	203	194	145	166	19

This was in contravention of Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions which an employer may make from the wages of his employee at any one time shall not exceed two thirds of such wages.

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

565. Irregular Implementation of Income Generating Activity Program

During the year under review, the County Executive made purchase of several items totalling Kshs.8,534,436 for distribution to various groups of people within the county as Income Generating Activities (IGA). However, review of documents revealed the following anomalies;

565.1 Lack of Conceptual Framework of Program

The IGA program was implemented without analyzing and documenting how it would be implemented. There was no document detailing strategic objectives of the program, activities to be conducted, when, how and by who, resources needed, expected output and outcome, performance indicators, stakeholders to be involved, their roles and responsibilities.

565.2 Projects Funded Without Assessment

There was no evidence that there was a Project Assessment Committee and an approval committee for the IGA projects. The beneficiaries' project proposals/business plans were not analyzed to confirm whether they were feasible.

565.3 Lack of Capacity Building for Program

There was no evidence of training for initiating projects for IGA program and how to manage the project. This includes training on entrepreneurship on how to initiate a project and how to run it. The step was overlooked as the only training offered was how to run a project.

565.4 Absence of a Well Laid Monitoring and Evaluation Framework

It was observed that the IGA program had no clear structure and detailed monitoring mechanism that was regularly utilized to monitor and evaluate the program activities to establish the progress, achievements and failures hence lacking a solid basis for quantifying the program's success or failure.

565.5 Failure to Follow up on Funded Projects

There was no evidence that the projects funded were followed up to check on the progress and impact.

In the circumstances, value for money on expenditure totalling Kshs.8,534,436 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

566. Understaffing of Internal Audit Department

During the year under review and as previously reported, the County Executive had an Internal Audit function in place with a total staff of six (6) officers. Review of the approved staff establishment of the County Government revealed that Internal Audit Department was supposed to be staffed by thirty (30) officers. This resulted to understaffing of twenty-four (24) personnel, contrary to Regulation 155(2)(a) of the Public Finance Management (County Governments) Regulations, 2015, which states that an Accounting Officer shall ensure that the organizational structure of the internal audit unit facilitates the entity to accomplish its internal audit responsibilities.

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

567. Weaknesses in the Audit Committee

Review of the Audit Committee's operations revealed the following weaknesses:

567.1 Operational Weaknesses

- (i) The Audit Committee was not adequately funded to follow up on the implementation of recommendations made by the oversight bodies.
- (ii) Unresolved prior audit matters from the previous year had not been presented to the Audit Committee by the Management.
- (iii) There was no status report available to track the implementation of resolutions related to prior years' audit matters that had been considered by the Audit Committee, the County Assembly or the Senate.

567.2 Appointment of the Audit Committee and Workplans

Audit review of audit committee appointments and operations established the following anomalies;

- (i) The Audit Committee held one sitting during the year before they were inaugurated.

- (ii) Letters of acceptance of the appointments by the individual Committee members were not dated. The Gazette notice was dated 12 April, 2024 while appointment letters were dated 5 February, 2024. Acceptance copies were not dated and register of correspondences was not stamped to indicate the date received.
- (iii) The appointment letter for the Chairman was dated 5 February, 2024 yet the appointment was to start on 1 October, 2023.
- (iv) The Audit Committee had not approved any Internal Audit Annual Workplans for the financial years 2023/2024 and 2024/2025.
- (v) There were no Board Calendar for 2023/2024, registers for declaration of interest, attendance of meetings, and declaration of gifts registers.

567.3 Quality Review and Capacity Building of Audit Committee

There was no evidence of quality reviews for the Audit Committee functions both internally and externally. In addition, there was no evidence of capacity building of staff or compliance with Continuous Professional Development (CPD) requirements.

567.4 Failure to Review Audit Reports by the Audit Committee

There were no properly conducted meeting procedures including lack of invitation to attend meetings and notice and agenda. Further the reports by the Internal Audit were not presented to the Audit Committee.

This was in contravention of Regulation 155(1) and (2) of the Public Finance Management (County Governments) Regulations, 2015, which states that the Head of Internal Audit Unit in a county government entity shall enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

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

568. Information and Communication Technology Controls and Data Environment

As previously reported, review of the County Executive ICT environment revealed that there was an ICT Policy document in place. However, an ICT Security Policy and Disaster Recovery Plans have neither been developed and spelt out in the ICT Policy. Further, formally documented, and approved processes to manage system changes and upgrades made to the existing ICT systems were not in place. The County Executive also lacked an ICT Steering Committee.

Review of the ICT Data Centre room also revealed lack of an access control system to restrict and monitor access to the server room, lack of smoke detector and lack of an environmental monitoring system to monitor the humidity and temperature in the data centre. There was no existing closed-circuit television (CCTV) system extended to the data centre. This was contrary to Regulation 110(1) of the Public Finance

Management (County Governments) Regulations, 2015 which states that the Accounting Officer for a County Government entity shall institute appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business continuity. Regulation 110(3) further stipulates that user of the system under this regulation shall take all reasonable steps to maintain the integrity of passwords and other security mechanisms not do anything that damages, restricts, jeopardizes, impairs or undermines the performance, usability, reliability, confidentiality or accessibility of any digital information system, programme, or other stored information data.

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

COUNTY EXECUTIVE OF NANDI – NO.29

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

569. Inaccuracies in Financial Statements

Review of the financial statements revealed the following misstatements: -

- i. Note 20(6)(v) on related party disclosures, on key management compensation (Governors, CEC Members and Chief Officers) reflects Nil balances in the current year column whereas prior year audited financial statements reflects an amount of Kshs.94,380,180. This casts doubt whether no payments were done in respect to management compensation during the year under review.
- ii. Note 16 to the financial statements reflects comparative fund balance of Kshs.216,785,559 whereas prior year audited financial statements reflects a balance of Kshs.573,945,875 resulting to an unexplained variance of Kshs.357,160,316.
- iii. The statement of receipts and payments reflects other payments amount of Kshs.521,140,659 with Nil comparative amount and other grants and transfers Nil balance with a prior year comparative amount of Kshs.589,372,404. However, the same components listed under other payments were in the prior year reported under other grants and transfers.
- iv. Further, budget execution by programs and sub-programs reflects final expenditure budget and actual amounts of Kshs.6,329,572,546 and Kshs.5,447,556,271 respectively which varies with the statement of comparison of budget and actual performance (recurrent and development combined) of Kshs.8,988,667,004 and Kshs.6,971,536,463 respectively, resulting to a variance of Kshs.2,659,094,458 and Kshs.1,523,980,192.
- v. In addition, the budget execution by program reflects budget utilization difference amounting to Kshs.206,179,055, while the recast amount reflects a difference of Kshs.882,016,275, resulting to a variance of Kshs.675,837,220.

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

570. Un-Reconciled Salary Arrears Payments

The statement of receipts and payments reflects compensation of employees' expenses of Kshs.3,933,307,091 as disclosed in Note 3 to the financial statements. Included in the payments were salary arrears processed through IPPD system that was paid to three thousand, three hundred and forty-six (3,346) employees across various departments amounting to Kshs.40,421,632 for a period of eleven months (11) excluding the month of September, 2023. The consolidated arrears paid ranged between an amount of Kshs.946,495 to Kshs.8,699,700 per month. However, the

reconciled staff arrears schedule payable in each month, the nature of arrears paid and the period the arrears relate to, was not provided for audit. Further, there was no ageing analysis of staff arrears to support the expenditure since all salaries were remitted monthly to employees through the IPPD system.

In the circumstances, the regularity and accuracy of the compensation of employees amounting to Kshs.40,421,632 could not be confirmed.

571. Unsupported Transfers to Youth Operation Account

The statement of receipts and payment reflects use of goods and services expenditure of Kshs.1,104,264,960, which as disclosed in Note 4 to the financial statements includes an amount of Kshs.12,146,367 incurred on training activities. However, review of schedules provided in support of the expenditure revealed transfer to youth fund account amounting to Kshs.10,000,000 which was not supported with payment vouchers, authority and other relevant documentation as required by Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015

In the circumstances, the accuracy, completeness and regularity of training transfers amounting to Kshs.10,000,000 could not be confirmed.

572. Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.214,152,482 as disclosed in Note 13A to the financial statements. However, certificates of bank balance, cash book and bank reconciliation statements for Nandi County Primary Healthcare and Nandi County Nutrition International Support accounts with balances of Kshs.17,364,750 and Kshs.13,318, respectively were not provided for audit.

In the circumstances, the existence, accuracy and completeness of the cash and cash equivalents balance of Kshs.214,152,482 could not be confirmed.

573. Voided Payments and Purchase Orders in IFMIS

The statement of receipts and payments reflects total payments amount of Kshs.6,971,536,463 whereas IFMIS financial statements report reflects payments amounting to Kshs.6,970,278,000 resulting to an unexplained variance of Kshs.1,258,463. Further, IFMIS reports revealed that voided payments amounting to Kshs.343,381,962, for seventy-seven (77) purchase orders for department of roads and forty (40) purchase orders for department of finance and economic planning were voided with no explanation or reconciliation provided. Further, it was not clear why transactions duly processed and entered in the system transactions were later voided and how the voided transactions were finally settled.

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

574. Inaccuracies in Imprests and Advances

The statement of assets and liabilities reflects Nil outstanding imprests and advances as disclosed in Note 14 to the financial statements. However, review of imprest records

in the imprest register revealed outstanding imprests balance of Kshs.6,294,745 which had not been surrendered.

In the circumstances, the accuracy and completeness of outstanding imprests balance could not be confirmed.

575. Unexplained Variances with Prior Year Comparative Amounts

The statement of receipts and payments and the Notes to the financial statements reflect total payments amount of Kshs.6,971,536,463. Comparison of the payments in the Notes against comparative amounts revealed variances between the prior year amounts and current year amounts which were either less or more than the current year amounts by 10%. No explanations were given for the variances.

In the circumstances, the accuracy and completeness of the adjustments in the expenditure items could not be confirmed.

576. Payment of Pending Bills Not Previously Disclosed

The statement of receipts and payments reflects use of goods and services and acquisition of assets amount of Kshs.1,104,264,960 and Kshs.908,011,409, respectively. Examination of expenditure records relating to use of goods and acquisition of assets revealed payment of pending bills amounting to Kshs.11,836,900 relating to various supplies and services and roads construction which were not disclosed in the audited financial statements for 2022-2023 under disclosures on analysis of accounts payable.

Further, pending bills movement schedule was not prepared and it was not clear whether these bills were properly payable.

In the circumstances, the eligibility of paid pending bills could not be confirmed.

Emphasis of Matter

577. 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.8,988,667,004 and Kshs.7,185,688,945 respectively resulting to an under-funding of Kshs.1,802,978,059 or 20% of the budget.

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

My opinion is not modified in respect of this matter.

Other Matter

578. Unresolved Prior Years Audit Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on lawfulness and Effectiveness in Use of Public Resources and Report on the Effectiveness of Internal Control, Risk Management and

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

579. Non-Compliance with the Public Sector Accounting Standards Board Reporting Template

Review of the annual report and financial statements reflects the following non-compliance issues with Public Sector Accounting Standards Board (PSASB);

- i. Budget execution by programs and sub-programs does not indicate programmes per vote and has been replicated in pages 8 and 9 and pages 10 and 11.
- ii. Headers for financial and non-financial statements are not similar.
- iii. Progress on follow up of prior year audit recommendations was not signed.
- iv. Contingent liability register does not indicate litigations against the County Executive and their current status.
- v. Note numberings for budget execution by programs and sub-programs is not consistent.

In the circumstances, Management was in breach of the PSASB requirements.

580. Irregularities in the Compensation of Employees

The statement of receipts and payments reflects compensation of employees' expenses amount of Kshs.3,933,307,091 as disclosed in Note 3 to the financial statements. However, the following anomalies were noted;

580.1 Employees with No Personal Files

Included in the payments is gross salary amount of Kshs.6,560,559 that was remitted to one hundred and thirty-nine (139) staffs whose personal files did not contain their appointment letters, academic qualification, National Identity Card and other employee's employment records. Further, one hundred and thirty-five (135) staff members with no personal files were paid through manual excel sheet payroll and did not equally have personal file numbers, designation, KRA pin and job group yet they drew benefits equivalent to officers in Job Group K and above in the public service.

580.2 Employees on Payroll Beyond the Mandatory Retirement Age

Analysis of monthly Integrated Payroll and Personnel Database (IPPD) payroll supporting the expenditure revealed that twenty-seven (27) employees who attained the mandatory retirement age of sixty (60) years were still active in payroll and were paid total gross salary amounting to Kshs.11,121,125. This was contrary to Regulation

70(1) of Public Service Regulations, 2020 which requires that subject to the Constitution, Section 80 of the Act, any other relevant written law or a specific Government Policy, the mandatory retirement age in the public service to be the age of sixty (60) years except for persons living with disabilities, lecturers and research scientist serving in public universities.

580.3 Irregular Appointment and Promotion of Senior Officers

Included in the payment is basic salaries and allowances paid to four (4) employees at Director level amounting to Kshs.8,115,936 (average Kshs.676,328 per Month). Review of the employees' files revealed that some of the Directors were promoted through several cadres up to their substantive post in respective Departments. However, the promotions were not competitive and they did not have the requisite qualifications for the appointments while other officers were promoted yet they had pending disciplinary or integrity issues which had not been concluded and recommendations had not been made by the accounting officers as required by the Regulations. The engagement and promotion of senior staffs with the necessary qualification, skills and integrity as defined in the Government Scheme of Service could not be confirmed.

580.4 Unprocedural Hiring of Casual Workers

Included in the expenditure is an amount of Kshs.15,783,157 paid to casuals employees as wages. However, the payments were not supported by appropriate authority to engage and documentation showing that the casuals were competitively hired. Further, the casuals were appointed by the respective Head of Departments without due regard to fair competition and representation of the County's diverse communities.

In addition, there was no departmental master roll containing the details of specific worksite, designation and the casual attendance for specific period of time. Therefore, the casuals might have been paid monthly wages which were not commensurate to the services offered to the County Executive and/or no services may have been rendered at all as there were no underlying records of worksites and assigned duties. There were no evidence provided to show how the casuals were paid through their bank accounts.

580.5 Staff Paid in Both IPPD and Manual Payrolls

Comparison between salaries paid in IPPD system and manual payroll revealed that eleven (11) officers were drawing allowances in both payrolls. The officers were paid a total of Kshs.34,856,231 in the IPPD and allowances totalling Kshs.1,782,373 in the manual payroll. It was, not clear why the officers were being paid in the manual payroll whereas they were already defined in Integrated Payroll and Personnel Database (IPPD) where they drew all basic salaries and allowances that they were entitled to.

580.6 Payment of Salaries Outside IPPD

Review of expenditure records for compensation of employees revealed that the County Executive uses both IPPD and manual excel sheet in processing of payroll. Review of monthly manual payroll revealed that fifteen (15) permanent staffs,

two hundred contractual staff (200) and five hundred and fifty-four (554) casual staff were paid net salary amounting to Kshs.260,291,231 outside IPPD system. This was contrary to Section 1.5.1 of The National Treasury Guidelines; Financial Accounting Recording and Reporting Manual which states that each County Government department is responsible for populating the IPPD with the information contained in these documents, issuing each appointee with a unique payroll number from the system, and providing the appointee with a letter of appointment (with reference to Public Service Board letter of approval).

Further, there may be a risk of unauthorized payments through manual excel sheet payroll and the information is prone to errors and manipulation. In addition, review of records held in personal files revealed that a senior payroll officer was interdicted for inclusion of non-existent (ghost) workers who were in the manual payroll system and later were converted into permanent and pensionable terms.

580.7 Failure to Provide IPPD Payroll for September, 2023

Included in the employee's expenditure is basic salary and allowances paid to permanent and pensionable staffs for the month of September, 2023. However, Management did not provide explanation and information in respect of the processing of the aforementioned salary as detailed below;

- i. The payment of salary was processed through Unified Human Resource System as recommended by The National Treasury. However, no proof of the correspondence in writing was provided for audit.
- ii. Management did not provide payroll information for September, 2023 reflecting all earnings and deductions but instead presented bank remittances for the employees in form of net salary amounting to Kshs.110,156,781.
- iii. No explanation was provided by Management why the salaries were not processed through IPPD as required by Paragraph 26 of The National Treasury circular No.ES/03 R (10) on the guidelines for preparation of the 2022/23-2024/25 medium – term budget of 19 July, 2021 which states that allocation for personnel emoluments must be supported by IPPD.

580.8 Un-authorized Payment of Allowances

Included in the payments are allowances paid to nine hundred and fifty-three (953) staffs under IPPD code 877 which is health services allowances paid to nurses and public health officers amounting to Kshs.228,720,000. However, it was not possible to confirm whether Management was authorized by Salaries and Remuneration Commission to pay the allowance and whether the allowances were paid at the correct rates.

580.9 Un-authorized Payment of Hardship Allowance

Included in the payment is hardship allowance processed through IPPD system amounting to Kshs.37,232,084 to four thousand five hundred and twenty-one (4,521) staff for a period of ten (10) months (excluding the months of September, 2023 and May, 2024). The payments ranged between Kshs.2,658,450 and Kshs.4,598,400 per month. However, the following irregularities and inconsistency were noted;

- i. No evidence was provided to confirm that the officers who were paid the hardship allowance were stationed in Tinderet Sub-County Offices which was the only hardship designated zone in Nandi County and as gazetted by the state department of Public Service.
- ii. Review of personal files for the officers being paid hardship allowance indicated that this was not part of the allowances payable in their respective appointment letters.
- iii. The hardship allowance was not processed in IPPD payroll of September, 2023 and May, 2024. However, this was reinstated in the subsequent months of October, 2023 and June, 2024 IPPD payrolls. No explanation was provided for the suspension and reintroduction of payment of the allowance.
- iv. The rate of the hardship allowance paid was a random amount that was not pegged on SRC circular no; SRC 022/12/2015 dated 10 December, 2014 which states that in an effort to compensate for the cost of living and for attraction of skills to hardship areas in the Republic, the Commission has reviewed hardship allowance to be paid at a flat rate for all the equivalent grades across Public Service for both National and County Government.
- v. The number of employees that were paid hardship allowances fluctuated in different months with no authorization for pay change (Pay Change Advice) to effect the charges. Further, the changes and fluctuation of the number of employees was not supported by any recruitment or retirement.

580.10 Non-Remittance of Payroll Deductions

The statement of financial performance and as disclosed in Note 13 to the financial statements on the Executive Car and Mortgage Fund financial statements reflects current portion of long-term receivables from exchange transaction balance of Kshs.60,259,998 which include current loan repayments dues of Kshs.6,646,716 which comprise of payroll deductions that had not been remitted to the Fund by the County Executive as at 30 June, 2024. The long outstanding receivables affected the Fund's cashflow and loan disbursements.

580.11 Irregular Payment of Emergency Call Allowance

Included in the payments is emergency call allowance paid to two hundred and sixty-one (261) health workers amounting to Kshs.83,376,000 that was processed through IPPD system. However, the allowance where random rates of Kshs.80,000, Kshs.72,000 and Kshs.10,000 paid to two hundred and sixty-one (261) staff members leading to over payments in allowances of Kshs.2,998,000 to sixty-seven (67) officers and underpayments of allowances of Kshs.3,880,000 all to one hundred and ninety-four (194) officers totalling Kshs.6,878,000.

Therefore, the County Executive overpaid and under paid a number of health staffs contrary to SRC circular no SRC/TS/CGOVT/3/61 Vol.III/(136) that directed emergency call allowance to be paid at a flat rate of Kshs.30,000 to medical officers irrespective of the grades.

Further, no evidence was provided to confirm that the two hundred and sixty-one (261) staff that were paid emergency call allowance were either medical doctors, dentists or pharmacists deployed in the County hospitals as stipulated by the SRC Circular on health workers allowances.

580.12 Irregular Payment of Monthly Salary to Administration Police Officers

Included in the payments were extraneous allowance paid to eighteen (18) Administration Police Officers attached to the Governor and Deputy Governor amounting to Kshs.5,184,000. The officers were deployed to serve as personal body guard and residential guard to the two state officers. However, review of the security officers' files revealed; the following anomalies;

- i. The Administration police officers were being paid monthly wages amount of Kshs.24,000 each instead of the recommended monthly extraneous allowance amounting to Kshs.5,000 for constable and Kshs.10,000 for the rank of inspector as communicated by Chief of Staff vide later dated 16 January, 2020.
- ii. The money paid for the private use of the administration police officers was channeled to their bank account contrary to National Police Service Act, 2011 which requires the money paid for the private use of private officers to be remitted to The National Treasury.
- iii. The funds paid as allowances to the officers had no authorized budgetary item in the County Executive's financial estimate since allocation of personnel emoluments must be supported by IPPD.
- iv. The officers were being paid by the National Police Service Commission as full-time employees.

580.13 Failure to Comply with One-Third Rule on Basic Pay

Analysis of the monthly payrolls revealed that a total of three thousand seven hundred and nineteen (3,719) employees received net pay of less than a third of their basic salary in twelve (12) months period with the monthly numbers ranging between twenty-six (26) and five hundred and thirteen (513) employees. This was contrary to Section 19(3) of Employment Act, 2007 which states that the total amount of all deductions which under the provisions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

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

Review on the IPPD payroll records provided for audit revealed that, as at 30 June, 2024, the County Executive had a total of four thousand seven hundred and eighty (4,780) employees out of which four thousand six hundred and ten (4,610) or approximately 94% were from the dominant community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which require that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

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

581. Irregularities in the Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,104,264,960 as disclosed in Note 4 to the financial statements which includes foreign travel and subsistence expenses of Kshs.12,707,063. However, the following anomalies were noted;

581.1 Irregular Foreign Travel Expenses on Caucus Meetings

Review of expenditure records relating to foreign travel and substance reflects payments amounting to Kshs.1,761,410 made to three (3) officers towards the attendance of black caucus in the USA. This was however contrary to Public Service Circular OP/CAB.308/018 by the Chief of Staff and Head of the Public Service on suspension of non-essential travel which disallowed such journeys. Further, review of foreign travel and substance expenditure revealed a payment amounting to Kshs.1,317,316 made to a state officer to facilitate attendance of 68th session on the status of women in New York City for fourteen (14) days. This was contrary to the period of travel of seven (7) days inclusive of travel days stipulated in circulars No. OP/CAB.1/7A of 26 January, 2015 by Chief of Staff and Head of Public Service.

581.2 Failure to Remit National Industrial Training Authority (NITA) Training Levy

Included in the expenditure is training expenses amounting to Kshs.12,146,367. However, there was no evidence that Management of the County Executive paid training levy of Kshs.50 per employee to NITA during the year contrary to Section 5B(2) of the Industrial Training Act, 2022.

581.3 Lack of Policy on Car Hire Services

Included in the expenditure is specialised material supplies amount of Kshs.321,841,616. Review of expenditure records relating to the specialised materials supplies revealed car hire services expenses amount of Kshs.42,829,062. However, County Executive had not formulated a policy on transport to guide on the car hire services.

581.4 Irregular Subscriptions to Council of Governors

Included in the expenditure is other operating expenses amount of Kshs.72,491,121 which further includes subscriptions to the Council of Governors amount of Kshs.5,800,000. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government. Further, payment vouchers supporting these transactions were not provided for audit.

581.5 Outsourcing of Legal Services

Included in the expenditure is other operating expenses amounting to Kshs.72,491,12 which includes payments amounting to Kshs.36,820,030 in respect of legal expenses. However, it was not clear why the services which could have been discharged by the Office of the County Attorney were outsourced.

581.6 Irregularities in Procurement of Fuel and Lubricants

Included in the expenditure is fuel, oil and lubricants expenditure amount of Kshs.85,728,340. Review of expenditure records relating to purchase of fuel revealed that the County Executive entered into framework agreement for supply and delivery of fuel and lubricants with seven (7) suppliers. During the year under review, six (6) firms supplied fuel and lubricants amounting to Kshs.85,728,340 and the distribution of the tenders were as follows: - Firm 1 - 24%, Firm 2 - 57 %, Firm 3 - 9%, Firm 4 - 6%, Firm 5 - 2%, Firm 6 - 2%. The two (2) suppliers (Firms 1 and 2) supplied over 80% of the total fuel supplies. However, no justification was provided why only two (2) suppliers were given orders to supply over 80% of total fuel and lubricants supplies out of the seven contracted firms.

In the circumstances, value for money could not be achieved and Management was in breach of the law.

582. Ineligible Expenditure Under Kenya Informal Settlement Improvement Project (KISIP 2)

The statement of receipts and payments reflects other payments amount of Kshs.521,140,659 as disclosed in Note 12 to the financial statements which includes Kenya Informal Settlement Improvement Project KISIP2 expenses amount of Kshs.107,267,092. Review of the documents for KISIP 2 reflects an expenditure amounting to Kshs.1,288,000 paid to eleven (11) officers who attended a 'workshop' for evaluation of a contract for the construction of Mosoriot settlement infrastructure.

However, the evaluation of the contract for the construction of Mosoriot settlement infrastructure was a normal procurement function which could have been done within the duty station was held outside the precincts of the duty station. This was contrary to The National Treasury circular no 20/2015 on commitment control and expenditure measures which states that accounting officers are required to ensure that all workshops and retreats with majority of participants from one duty station are held within the precincts of the duty station.

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

583. Irregularities in Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.908,011,409 which includes construction of buildings expenditure amounting to Kshs.227,392,588 as disclosed in Note 9 to the financial statements. However, the following observations were made;

583.1 Irregularities in Construction of Nandi County Aggregation and Industrial Park

Review of contract records provided revealed that the County Executive contracted a local company to construct the Nandi County Aggregation and Industrial Park at a contract sum of Kshs.520,003,128 with effect from 15 August, 2023. This award was made after the first advertised tender was non-responsive prompting a re-tender where five (5) firms submitted their tenders. Included in the expenditure is an amount of Kshs.67,787,822 that was paid to the contractor towards construction of County Aggregation and Industrial Park during the financial year under review. However, the following anomalies were noted: -

- i. Review of the project documents and physical inspection on the project revealed that the engineer's estimate for the project were not provided, ground or site handing over report and order to commence work was not in file and the contract duration for the project was not specified.
- ii. The contractor requested for authority to increase excavation depth from the BQ depth of 1.2m to 2.7m being the depth of the black cotton soil dated 11 September, 2024. However, the approval of the variation order was not provided for audit.
- iii. The contractor made an application for first certificate payment of Kshs.118,306,343.74 which was received by the County Works officer on 10 November, 2023. However, the claim included general preliminaries, claim of Kshs.7,012,500 for works not done.
- iv. The County Works Officer however, issued first payment certificate dated 10 November, 2023 amounting to Kshs.67,787,822 which was paid on 6 December, 2023 on Form M.O.P.W 121 being an amount for particular preliminaries, general preliminaries and builders work. However, actual work measurement sheet was not provided to support the payment.
- v. Particular preliminaries certified were the same as invoiced by the contractor and included the works which had not been done.
- vi. The builders work certified was not confirmed during physical inspection because only the column bases for four (4) warehouses had just been excavated with no builder's works done.
- vii. Request for approval of an amendment or variation of the bill of quantity by Kshs.39,547,500 was made by the Head of Procurement to the Chief Officer, Department of Trade and Tourism on 27 October, 2023 and this was endorsed on the same day by the accounting officer.
- viii. Valuation for the substructure works (excavations) was done by the County works officer putting the current work done at Kshs.57,760,600 up from the BQ's amount of Kshs.18,213,100.
- ix. Interim certificate No. 2 dated 12 September, 2024 amounting to Kshs.30,100,000 was raised by the project engineer on builder's works which was not supported by actual measured works.

- x. The performance bond of Kshs.26,000,156 dated 14 August, 2023 from a commercial bank expired on 26 February, 2024 and no evidence revealed of the current performance bond was provided for audit.
- xi. Physical inspection in October, 2024 revealed that no adequate workforce was maintained by the contractor on site as there were only three (3) workers present and no construction works was going on except for curing of a recently completed section of one side of the perimeter wall with the remaining three (3) sides still not done. The site did not have any construction activity going on and was abandoned. Only earthworks had been done that included; excavations and filling using stones and marram, access road, one side of the perimeter wall completed with column bars erected on one of the sides and column bases for four (4) warehouses excavated.
- xii. The contractor's ability to complete the project in good time was doubtful and it was not clear if any formal notices had been issued to the contractor on the inability to progress effectively and maintain adequate work force and equipment on site.
- xiii. The project was jointly funded by the National Government and the County Government. However, the level of funding that was to be provided by each Government was not clear since no agreements or commitment between the two levels of Government was provided for audit.

583.2 Delay in Completion of Construction of Avocado Aggregation Center

The County Executive through the National Agricultural and Rural Inclusive Growth Project (NAGRIP) entered into a contract agreement for construction of avocado aggregation center with a local firm at a contract sum of Kshs.49,526,099. The contract duration was to be three (3) months with effect from 19 December, 2022. The contract was first extended for a period of six (6) months with effect from 7 March, 2023 and again extended for a period of nine (9) months with effect from 15 September, 2023. Physical inspection carried out in the month of September, 2024 revealed that the structure and the cold room were 100% complete and landscaping was ongoing. However, as per Engineer certificate, the project was 99% complete with three (3) months behind the completion period. The value for money was not derived from the expenditure incurred on the delayed project.

583.3 Irregularities in Proposed Construction of Perimeter Wall and External Works for the New Governor's Office

Review of contract records provided revealed that six (6) firms tendered for the construction of the perimeter wall and external works for the new Governor's Office. The winning bidder entered into a contract with the County Executive to carry out construction works for perimeter wall and external paving works to the Governor's offices at Kapsabet on 10 July, 2023 at a contract sum of Kshs.24,659,930 and the project was expected to take twelve (12) months. However, the following observations were noted;

- i. Two (2) interim certificates were raised and an amount of Kshs.19,487,859 was paid to the contractor in the year under review. However, the payment certificates were not supported with works measurement sheets or appraisal document for

the measured works. The detailed priced Bills of Quantities (BQ) was not provided for audit hence it was not possible to establish the detailed works and actual cost.

- ii. Review of the project expenditure records revealed that the bill of quantities included prime cost sum of Kshs.5,250,000 for construction of 10 cubic meter elevated water tank, including pumping system and collection of all roof catchment into an under-ground tank which was to be carried out by a sub-contractor. However, there was no, documentation provided to prove that the subcontracted works were competitively sourced.
- iii. Physical inspection of the works for perimeter wall and external paving works in September, 2024 revealed that the elevated tank was already installed and paid under Interim certificate 1 for an amount of Kshs.2,625,000. However, the pumping system, underground tank and roof catchment works had not been constructed.
- iv. Three (3) double steel gates each measuring 6000 x 2100mm high costed Kshs.300,000 each and two (2) pedestrian gates each measuring 1300 x 2100mm high costed Kshs.50,000 each were provided for in the bills of quantities. However, only two (2) double steel gates not of same size and one (1) pedestrian gate all made of metal bars were erected. The gates drawings were not provided for audit.
- v. Provisional sums of Kshs.350,000 were made for project supervision, Kshs.450,000 for electrification, Kshs.1,000,000 for storm drainage, Kshs.1,000,000 for supervisory cost and Kshs.500,000 for contingencies, however, these amounts were not accounted for.
- vi. The project duration was expected to be twelve (12) months effective 10 July, 2023. However, as at the time of audit in September, 2024, the works had not been handed over.
- vii. Further, the Project Manager did not maintain a project file and therefore important project information such as contract, drawings, priced bill of quantities, ground handing over or order to commence, minutes, site inspection minutes and site instructions among other correspondences were not provided for audit.

583.4 Irregularities in Construction of Nandi Cooperative Creameries Kabiyeet Phase III

Review of contract records provided revealed that the County Executive entered into a contract with a local construction firm to construct the Nandi Cooperative creameries Kabiyeet Phase III on 26 August, 2022 at a contract sum of Kshs.64,750,673.

The contract duration was twelve (12) months effective from the date of the agreement and was expected to end by 26 August, 2023. As previously reported, in 2022/2023 the County Executive had paid a total of Kshs.46,507,268 to the contractor. According to expenditure records provided in the year under review, a total of Kshs.19,194,490

had been paid to the contractor both totalling Kshs.65,701,758 which exceeded the contract sum by an amount of Kshs.951,085.

Physical inspection revealed that the project was behind schedule, construction of ablution block was still not complete, reinforced glass cladding windows and doors, supply and delivery of milk cleaning materials, supply and delivery of fresh milk film, supply and delivery of fresh yogurt printed cups and trays were not yet started. As at the time of audit in September, 2024, although the contractor was still on site, the project was not complete.

583.5 Incomplete Proposed Constuction of Modern Atheletic Training Camp in Kabsabet

The County Executive entered into a contract with a local company to construct a Modern Athletics Training Camp at Kapsabet Phase II at a contract sum of Kshs.53,222,000 on 3 July, 2019. The contract duration was three (3) months effective from the date of the agreement and was expected to end by 3 October, 2019. Two (2) payments of Kshs.7,000,000 and Kshs.2,899,800 totalling Kshs.9,899,800 were made to the contractor as final payments though the project was approximately 80% complete and had been put to use. Although the project was already in use, it was noted that painting works were not completed and there was no formal handing over certificate.

583.6 Stalled Proposed Completion Works at Kapsengere Hospital Phase II

The County Executive entered into contract with a local contractor for the proposed completion works of Kapsengere Hospital (Phase II) in Terik Ward at a contract sum of Kshs.9,954,900 on 5 May, 2019. The contract duration was for three (3) months effective from the date of the agreement and was expected to end by 5 July, 2019.

However, review of documents provided and physical verification revealed that no payments had been made despite a budgetary allocation of Kshs.3,954,900 having been made during the year. The ablution block, outpatient division building and site fencing were not complete.

Further, the ramp appeared structurally defective requiring demolition and this raised doubt on the competence of the contractor and effectiveness of supervision. In addition, the project appeared to have stalled and abandoned and the contractor was not on site at the time of the audit in September, 2024. The objectives of the project may not be realized and the public may not have received value for money from the project.

583.7 Unsupported Construction of Kobujoi Sub-County Hospital

The County Executive entered into a contract with a local firm for construction of Kobujoi Sub-County Hospital. However, the contract sum could not be confirmed because signed contract documents were not provided for audit. Further, payments amounting to Kshs.3,292,946 had been made to the local construction firm during the year under review. However, the payment vouchers and payment certificates were not provided for audit.

Physical inspection of the project carried out in the month of September, 2024 revealed that; the super structure was generally complete, inside walls had been plastered, skimming and undercoat applied on inside walls, floor tiling was complete, terrazzo works were in progress, electrical works and staircase works were still incomplete, roof ceiling works was at approximately 90% complete and the ramp was incomplete and work was in-progress, The project was generally progressing well with adequate workforce and adherence to quality

583.8 Delay in Construction of Mother and Child Hospital at County Referral

As previously reported, the County Executive entered into a contract with a local firm for completion of Mother and Child Hospital (MCH) at the Kapsabet County Referral Hospital at a contract sum of Kshs.409,813,441 which was signed on 17 April, 2019. The contract was to be for a duration of two (2) years, two months and two weeks which was to end at the close of the financial year 2020-2021. As at the time of 2022-2023 an amount of Kshs.142,500,462 had been paid to the contractor.

Review of budget records revealed that there was a budget allocation amount of Kshs.89,000,000 towards completion of the project out of which payments amounting to Kshs.66,333,788 were made to the contractor during the financial year under review resulting to total payments of Kshs.208,834,250. However, the contract agreement, payment vouchers supporting the payments made and the project file were not provided for audit.

Physical verification carried out in the month of September, 2024 revealed that the contractor was on site with works ongoing though at a slow pace. Further the building was still incomplete with a completion level was estimated at 75%. In addition, since inception in 2019, electrical works, the ramp, external wall finishes, the floor tiling and the basement were incomplete, two (2) elevators designed for the building had not been installed.

583.9 Incomplete Construction of the Governor's Office Building - Nandi County Headquarters

Review of records revealed that the County Executive entered into a contract with a local firm for the construction of Governor's Office Building - Nandi County Headquarters. Budgetary allocation amounting to Kshs.20,000,000 was made towards the completion of the project. However, out of an amount of Kshs.20,000,000 budgetary allocation, payments amounting to Kshs.4,326,400 were made to the local contractor during the year under review. Further, contract agreement, payment vouchers supporting the payment and the project file were not provided for audit. Although there was recent external painting works on the building which was still incomplete, access to the physical site for verification was limited as the Project Manager was not available on site and the site was closed with no activity going on. In the circumstances, value for money amounting to Kshs.4,326,400 from the above project could not be confirmed.

583.10 Unconfirmed Variation for the Proposed Construction of a Fresh Produce Market at Jua Kali Area, Kapsabet Town

Review of records reflected that the County Executive through Department of Administration, Public Service and E-Government entered into a contract with a local Contractor for proposed construction of a Fresh Produce Market at Jua-Kali area in

Kapsabet Municipality on 31 March, 2022 at a contract sum of Kshs.92,509,873. The project execution and completion was expected to take twelve (12) months from the commencement date ending on the 31 March, 2023. Five (5) payment certificates totalling Kshs.92,509,874 equivalent to the contract sum had been issued and paid.

Further, two contract extension periods of eighteen (18) weeks and another for forty weeks (40) were granted together with a variation of contract amounting to Kshs.22,970,940 translating to 24.8% of the total contract sum. An addendum to the extension of contract period or time and variations to contract for the contract agreement was later entered into between Kapsabet Municipality and the Local Contractor on 6 February, 2024 for a period of twelve months ending February, 2025.

However, there was no evidence to confirm that the Ad-Hoc Committee recommendations were acted upon before variation of contract was approved. Further, all payment certificates for the initial contract sum were not supported by a valuation report and inspection and acceptance certificates as required by Section 48 of the Public Procurement and Asset Disposal Act, 2015. It was noted that there was no evidence of contract variation initiation neither was there any variation order by the project manager.

The correspondences between the donor and the County Executive dated 12 April, 2024 indicated that the project completion was at 95% as at the time of the last interim payment certificate while the monitoring and evaluation report before variation of contract was initiated, indicated that the project was 90% complete which is contrary to donor report. Physical verification carried out in the month of September, 2024 revealed that the project was not complete. The County Executive risks losing an amount of Kshs.22,970,940 through irregular variation of project cost for a project which was 95% complete.

583.11 Delay in Completion Works Phase II for Chepterwai Sub-County Hospital

Review of records reflected that the County Executive entered into contract with a local contractor for proposed completion works at Chepterwai Sub-County Hospital phase II on 31 March, 2022 at a contract sum of Kshs.41,538,221 for a contract duration of twenty-four (24) months effective from the date of the agreement and was expected to end by 31 March, 2024.

In the year under review, an amount of Kshs.10,990,472 was paid for the completion works however, physical verification revealed that only one (1) interim payment certificate amounting to Kshs10,990,472 was paid during the year with no actual measured works for the paid certificate. Further, the contractor was not on site at the time of the audit, and the proposed works had not been completed and the project was behind schedule by six (6) months.

In the circumstances, the objectives of the project may not be met and the residents may not receive value for money amounting to Kshs.10,990,472.

583.12 Delay in Operationalization of Kenya Devolution Support Project (KDSP) Funded Coffee Mill Project

Records provided for review revealed that the County Executive entered into contract with a local contractor for proposed design, drawing and construction of a coffee mill structure, and supply, installation, testing and commissioning of coffee milling equipment and associated structures or works on 22 March, 2022 at a contract sum of Kshs.60,018,462. The contract duration was twelve (12) months and remedying of defects for a period of six (6) months effective from the date of the agreement.

The project was completed in September, 2024 and the whole contract amount of Kshs.60,018,462 paid. Retention money totalling Kshs.2,482,400 was still held, however, it was not clear whether the amount retained would be sufficient to remedy defects on full operation of the coffee mill. Further, it was noted that Kenya Power and Lighting Company Limited quoted for electricity supply to the coffee mill on 6 January, 2023 a sum of Kshs.1,784,543 and the full amount had been paid however, at the time of audit, the electricity had not been supplied and the coffee mill was not operational.

The KDSP had a closing bank account balance of Kshs.2,841,406, however, there was no guidance on the closure of the project account since KDSP II had kicked off.

583.13 Delay in Operationalization of Nandi County Textile and Apparel Unit

The County Executive and Rivatex East Africa Limited entered into a Memorandum of Understanding on the 16 January, 2018 and a contract signed on 12 February, 2019 for the proposed construction of textile training and production plant at Mosoriot centre.

According to the agreement, the contract was to operate as a framework agreement between the two parties and was to become effective on the date of signing for a period of five (5) years subject to availability of funds.

Letter from the County Executive to Rivatex East Africa dated 8 May, 2023 informed both parties of the expiry of the contract agreement and the takeover of the project by the County Executive which was at 84% project completion.

The County Executive thereafter engaged other contractors for the remaining works with an amount of Kshs.6,149,996 paid to a local contractor towards operationalization of textile and apparel unit.

Further, the project was completed and awaiting its legislative framework to provide for its operationalization and commissioning. However, there was no procedural project handover from Rivatex East Africa Ltd to the County Executive upon the elapse of the Memorandum of Understanding. In addition, it was noted that forty-five (45) procured machines and equipment were handed over to the County Executive by Rivatex East Africa Limited. Further, correspondence between Nandi Executive and Rivatex East Africa Limited through a letter dated 24 October, 2023 indicated that Rivatex East Africa still owes County Executive an amount of Kshs.10,242,342 constituting of KRA Taxes of Kshs.505,377, Retention money amounting to Kshs.2,711,658 and Kshs.7,025,346 as funds budgeted for training component contrary to Regulation 74(6)(d) of Public Finance Management (County Governments) Regulations, 2015 which states that any unspent balance standing in the credit of the

project account shall be paid into the County Revenue Fund. The value for money may not be realized due to delayed operationalization of the project and the County Executive risks losing an amount of Kshs.6,149,996 due to unsettled accounts.

583.14 Unconfirmed Fuel Expenses on Road Works by County Machinery

Included in the amount is construction of roads expenditure amount of Kshs.308,955,964. Examination of expenditure records relating to road works revealed fuel expenses incurred on various road works in the County Wards amounting to Kshs.36,670,400 by the Department of Roads on County machinery carrying out various road works. However, records of all County machineries and the planned and actual roads works performed by the Department through force account including scope of works were not provided for audit verification.

583.15 Unconfirmed Purchase of Office Furniture and General Equipment

Included in the expenditure is an amount of Kshs.29,013,076 on purchase of office furniture and general equipment. However, examination of expenditure records relating to the furniture purchased revealed lack of proper records indicating the distribution and location of the purchased furniture.

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

584. Unconfirmed Roads Projects

Review of records provided reflects expenditure relating to road works amounting to Kshs.59,341,253 which was incurred on sixteen (16) roads that were done by the County Executive. Physical verification revealed that the works carried out included spot improvement, heavy grading, drainage or culverting works and road structures (box culverts). However, the following anomalies were noted;

- i. Signages were not erected on all the road works verified.
- ii. More protection works was required around box culvert drains
- iii. Culverts erected were already filled and required cleaning and opening up the drains.
- iv. Culverts had low back fill murrum or washed and were likely to collapse due to pressure on usage by motorists thereby requiring more back filling.
- v. Continuous murraming to be considered as most roads were supposed to be improved.

It was not possible to differentiate roads which were done by the County Executive from roads which were done by other entities.

In the circumstances, value for money may have not been realized on the expenditure amounting to Kshs.59,341,253 incurred on road works.

585. Unsubmitted Financial Statements for Level-Four Hospitals

During the year under review, four (4) level-four hospitals which include; Kaptumo Sub-County Hospital, Kibiyet Sub-County Hospital, Mosoriot Sub-County Hospital and Chepterwai Sub-County Hospital which are entities of the County Government of Nandi failed to submit financial statements to the Auditor-General for audit. This was contrary to Section 47(1) of the Public Audit Act, 2015 which states that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

Further, it was established that County Executive established the Facilities Improvement Fund (FIF) which requires remittance of 70% of the total hospital collections to individual facilities. However, quarter one (1) and two (2) collections were not remitted to the facilities as required thereby affecting the operations and autonomy of the individual facilities as required by the Nandi County Facility Improvement Fund Act, 2022.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

586. Lack of Updated Fixed Assets Register and Non-Disposal of Obsolete Assets

Examination of the County Executive's assets records revealed that the County Executive had a total of nineteen (19) unserviceable and obsolete vehicles in their custody which was contrary to Section 164(2) of the Public Procurement and Asset Disposal Act, 2015 which require an employee in charge of unserviceable, obsolescent, obsolete or surplus assets to bring the matter to the attention of the disposal committee through the head of the procurement function. Further Subsection (2) of the Act, requires an employee to comply with Subsection (1) within a reasonable time after the assets become unserviceable, obsolete or surplus. In addition, it was noted that the assets register was not updated with the asset details such as serial number, identification tags, make/model/brand, and cost of acquisition. In addition, a newly procured truck skip loader was not captured in the motor vehicle register.

In the circumstances, the identification, accountability and monitoring of the County Executive's assets could not be confirmed.

587. Failure to Develop Organizational Chart

Review of the organizational structure for the County Executive revealed that the County Executive had been operating without an organization chart since the commencement of devolution.

In the circumstances, information flow and how activities were directed between various levels of operation to achieve the goals of the County Executive could not be confirmed.

588. Weak Controls in the Processing of Payments

The statement of receipts and payments reflects total expenditure amounting to Kshs.6,971,536,463. However, review of payment vouchers in support of the expenditure incurred during the financial year revealed that most of the payment vouchers did not indicate cheque numbers or internet banking (IB) references, cash book voucher numbers and dates thereby making it hard to trace the payments in the cash book and bank statements.

Further, payment vouchers and the attached supporting documents were not stamped with date paid stamps thereby posing a risk of recycling of payment vouchers. It was also noted that some of the payment vouchers were not examined and signed together with the supporting documents being marked by person examining using red ink.

In addition, vote book control was not done on the payments in the vote control section of payment vouchers indicating the vote charged, the budgetary allocation, available balance before and after the charge. The payments were simply signed by the vote book accountant without such disclosures.

Similarly, the IFMIS System Generated Purchase Orders were not attached to some of the payment vouchers. Where the purchase orders were attached, details of some of the purchases were not disclosed as the purchase orders indicated just summaries.

There were no proper registers recording voucher movement from receiving section at the County Treasury to the cash office and storage (archives).

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

589. Lack of Independent Internal Audit Function

Review of governance structures revealed that the Head of Internal Audit was assigned duty in the office of Secretary, Nandi County Public Service Board on 18 April, 2023 for period of six (6) months to perform duties of the Board secretary/CEO, Nandi County Public Service Board. However, it was noted that there was no re-appointment letter to serve as Head of Internal Audit after lapse of the six (6) months. Further, the head of Internal Audit's last appointment letter in the file was dated 2 January, 2018 indicating he was appointed as Assistant Director of Audit.

Further, the Accounting Officer or County Executive Committee Member for Finance and Economic planning did not sign the audit charter.

In the circumstances, the independence of the Internal Audit Unit in assessment of internal controls, risk management and governance could not be confirmed.

590. Lack of Audit Committee Quarterly Meetings

Examination of Audit Committee records revealed that the Committee met four (4) times in the year under review. However, they did not meet on quarterly basis as stipulated in the Gazette Notice No.40. It was noted that the meetings took place on 22 February, 2023, 7 December, 2023, 8 December, 2023 and 27 December, 2023.

In the circumstances, provision of adequate oversight for the performance of internal audit could not be confirmed.

COUNTY EXECUTIVE OF BARINGO – NO.30

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

591. Inaccurate Non-Current Assets

Annex 6 to the financial statements reflects an amount of Kshs.9,537,819,993 in respect of the historical cost of assets. However, the balance differs with the fixed assets register balance of Kshs.9,027,499,774 resulting in an unreconciled variance of Kshs.510,320,219. Further, the costs for all the asset classes are included in the balance of Kshs.9,537,819,993 differ with balances reflected in the assets register by an unexplained variance of Kshs.510,318,195. In addition, the Annex reflects additional biological assets and intangible assets during the financial year of an amount of Kshs.36,037,980 and Kshs.15,331,160 respectively. However, review of supporting records revealed that these were not assets but recurrent expenditures which were budgeted and incurred under development vote. The expense of Kshs.36,037,980 related to donations to farmers which the County Executive does not have control over, while the amount of Kshs.15,331,160, related to ordinary activities of the County Executive and does not qualify to be intangible assets. Further the intangible assets balance of Kshs.81,418,448 is not reflected in the assets register.

In the circumstances, completeness and accuracy of the non-currents balance of Kshs.9,537,819,993 as at 30 June, 2024 could not be confirmed.

592. Variances Between the Financial Statements and Integrated Financial Management Information System Reports

The statements of receipts and payments reflects balances that were at variance with the Integrated Financial Management Information System (IFMIS) balances as summarized below:

	Financial Statements (Kshs)	IFMIS (Kshs)	Variance (Kshs)
Receipts			
Miscellaneous receipts	4,796,005	-	4,796,005
Payments			
Compensation of Employees	3,214,252,531	2,995,632,649	218,619,882
Use of Goods and Services	1,296,958,494	1,043,937,665	253,020,829
Transfers to Other Government Entities	21,233,657	656,900,518	(635,666,861)
Other Grants and Transfers	355,343,460	141,089,742	214,253,717
Acquisition of Assets	1,658,251,382	1,711,954,857	(53,703,474)

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

593. Unsupported Routine Maintenance of Vehicles and Other Transport Equipment Expenditure

The statement of receipts and payments reflects use of goods and services expenditure amounting to Kshs.1,296,958,494 as disclosed in Note 4 to the financial statements. The amount includes routine maintenance of vehicles and other transport equipment of Kshs.48,348,800. However, the expenditure was not supported by motor vehicle maintenance logbooks showing repairs, driver defects report, motor vehicle work tickets, pre and post repair inspection reports.

In the circumstances, the accuracy and completeness of routine maintenance of vehicles and other transport equipment of Kshs.48,348,800 could not be confirmed.

594. Unreported Bank Accounts

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.422,426,354 as disclosed in Note 13A to the financial statements. However, bank account balances totalling Kshs.80,380,057 held in two hundred and thirty-three (233) commercial bank accounts in respect of non-self-reporting: Sub-Counties, County projects and health facilities are excluded from the balance of Kshs.422,426,354. This was contrary to Section 90(1) of the Public Finance Management (County Government) Regulations 2015 that requires Accounting Officers to ensure that bank accounts reconciliations are completed for each bank account held by that Accounting Officer.

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

595. Unauthorized and Unutilized Water Projects

The statement of receipts and payments reflects acquisition of assets totalling Kshs.1,658,251,382 including construction and civil works expenditure of Kshs.538,086,713. Included in the construction and civil works expenditure is an amount of Kshs.32,148,270 paid to contractors for drilling, piping and equipping of eleven (11) boreholes. However, the permits from the Water Resource Authority (WRA), and water quality testing reports indicating whether the parameters levels are within the recommended water quality standards set by WRA were not provided for audit. In addition, three (3) boreholes drilled at a cost of Kshs.6,994,700 had not been equipped.

In the circumstances, the completeness, rights and obligations, occurrence and existence on the expenditure totalling Kshs.32,148,270 incurred on drilling of the boreholes could not be confirmed.

596. Unsupported Legal Expenses

The statement of receipts and payments reflects use of goods and services amounting to Kshs.1,296,938,494 as disclosed in Note 4 to the financial statements. Included in the expenditure are legal costs of Kshs.900,000 that were not supported with details such as the level of Court i.e., High Court, Court of Appeal; status of the case –

ongoing or complete; period taken to complete case; cost implication of concluded cases; procurement of legal firms; evidence of court attendance; invoices indicating the services offered and certificates of appointment in respect of each case or transaction.

In the circumstances, the occurrence, and completeness of legal expenditure of Kshs.900,000 could not be confirmed.

Emphasis of Matter

597. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (Recurrent and Development Combined) reflects final income budget and actual on comparable basis of Kshs.7,985,216,847 and Kshs.6,659,679,065 respectively resulting to under-funding of Kshs.1,325,537,782 or 16% of the budget. However, Management spent an amount of Kshs.6,549,844,205 against actual receipts of Kshs.6,659,679,065 resulting to an under-utilization of Kshs.109,834,860 or 1% of actual receipts. Further, the statement of comparison of budget reflects actual payments of Kshs.6,549,844,205 whereas statement of budget execution by programmes and sub-programmes indicates actual payments of Kshs.6,549,520,933 resulting to an unreconciled variance of Kshs.323,272.

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

598. Unreconciled Pending Bills

Note 20.1 to the financial statements on other important disclosures reflects pending accounts payables balance of Kshs.245,459,811 as at 30 June, 2024. However, the Controller of Budget (COB) budget review implementation report for 2023/2024 financial year reflects pending accounts payable balance of Kshs.369,250,531 resulting in unexplained and unreconciled variance of Kshs.123,790,720. The completeness and accuracy of the pending bills amount of Kshs.245,859,811 could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

599. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

600. Non-Compliance with the Public Sector Accounting Standards Board Requirements

The annual report and financial statements lacks strategic objectives as per the County Integrated Development Plan against Targeted Outcome and Performance Progress since inception of latest County Integrated Development Plan and there was no tabulation of Progress on Attainment of Development Objectives from Annual Development Plan for Financial year 2023-2024. This was contrary to the requirements by Public Sector Accounting Standards Board.

In the circumstances, Management did not adhere to the provisions of the PSASB Template.

601. Implementation of Recommendations by Legislative Committees

The County Executive did not provide any evidence in form of reports on the progress made in implementing prior year auditor's recommendations nor explanations in writing to the Parliament on why the report has not been acted upon in total breach of to the Public Sector Accounting Standards Board reporting framework and Section 53(1) of the Public Audit Act of 2015.

Further, there was no evidence of Implementation of the Legislative Committees' recommendations on the Audit Reports for years 2017/2018; 2018/2019 and 2019/2020.

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

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

Review of the Integrated Payroll and Personnel Data (IPPD) payroll for the month of July, 2023 revealed that a total of seventy-nine (79) employees earned net salary lower than one-third of their basic salary. This was contrary to Section C.1 (3) of the Human Resource Policies and Procedures Manual for the Public Service (2016) which prohibits one from drawing a net salary lower than a third of the basic salary.

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

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

The statements of receipts and payments reflects compensation of employees' expenditure amounting to Kshs.3,214,252,532. However, the percentage of the expenditure to the County Executive's total receipts amounting to Kshs.6,659,679,065 for the year ended 30 June, 2024 was forty-eight percent (48%) which exceeded the set limit of thirty-five percent (35%) contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. There was no evidence that the County Executive Committee Member for Finance

had tabled a bill in the County Assembly to control the wage bill thus no efforts appear to have been made to check the wage bill.

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

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

Review of appointment records by County Public Service Board revealed that the Board recruited fifty-four (54) officers in various departments within the County out of whom fifty-two (52) officers or 96% were from the dominant ethnic community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which require that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

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

605. Irregular Engagement of Casual Employees

The statement of receipts and payments reflects compensation of employees expenditure amounting to Kshs.3,214,252,531. The amount includes basic wages of temporary employees amounting to Kshs.20,232,540 as disclosed in Note 3 to the financial statements. However, the engagement of casual workers was not authorized by the County Public Services Board, authorizing departments to recruit casual employees. This was contrary to Section 74 of the County Governments Act, 2012 which requires the County Public Service Board to regulate the engagement of persons on contract, volunteer and casual workers in its public bodies and offices. Further, the casual workers were not competitively recruited and the signed muster rolls showing attendance of the casual workers were not also provided.

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

606. Irregular Contract on Construction of Market Sheds and Stalls at Kapsoo

The statement of receipts and payments reflects acquisition of assets expenditure totalling Kshs.1,658,251,382. Included in the expenditure is construction of buildings amounting to Kshs.575,059,650 out of which a payment of Kshs.2,899,327 was in respect for construction of market sheds and stalls at Kapsoo center. However, the contractor did not attach bank statements for 2020 and 2021 as per the set evaluation criteria. This was contrary to Regulation 32 of the Public Procurement and Asset Regulations, 2020.

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

607. Irregular Contract on Installation of Floodlights

The statement of receipts and payments reflects acquisition of assets expenditure totalling Kshs.1,658,251,382. Included in the expenditure are construction and civil works amounting to Kshs.538,086,713 out of which a payment of Kshs.3,997,476 in respect to Tender Number BRCG/QTN/LHUD/129541/2022-2023 was for installation of floodlights at various centers. However, the contractor attached unregistered

National Construction Authority's (NCA) certificate (Electrical works). Thus, the procurement was carried out in contravention of Regulation 32 of the Public Procurement and Assets Disposal Regulation, 2020 which requires financial evaluation of tenders to be in strict adherence to the compliance and evaluation criteria set out in the tender documents.

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

608. Stalled or Delayed Health Projects

Analysis of the Health projects implemented revealed that projects with a contract sum of Kshs.29,344,031 and cumulative payments of Kshs.20,846,989 had either stalled or delayed.

In the circumstances, the public may not receive value for money from the expenditure in the stalled and idle projects.

609. Delayed Implementation of Infrastructure Projects

Analysis of Project Implementation Status Report for the year indicated projects budgeted for Kshs.57,668,681 including projects totalling Kshs.11,468,681 that were planned for in year 2017/2018 which to date remained incomplete.

Further, the contract for the construction of Kabarnet stadium was awarded to four (4) contractors at total contract price of Kshs.46,886,162. The budgeted cost was Kshs.1,658,251,382. The contracts were signed within the financial years 2013/2014, 2016/2017 and 2023/2024 and the initial expected completion period for the project was financial year 2017/2018. However, the project remains incomplete, abandoned and non-functional more than ten (10) years after signing of the initial contract.

In the circumstances, the public may not receive value for money from the investment in the delayed infrastructure projects.

610. Incomplete Roads Projects Implementation Status Reports

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.1,685,251,382 as disclosed in Note 9 to the financial statements including construction of roads costs of Kshs.365,433,148. However, Project Implementation Status Reports provided for audit did not show: chainage of the roads to be constructed; taking over certificates of the projects completed; monthly progress reports for the projects implemented; contractor; tender number/contract number; contract sum; contract period; commencement date; completion date; elapsed period; percentage of completion; amount certified for payment to date; payment certificate number; amount paid to date; balance unpaid and project status.

In the circumstances, the public may not receive value for money from the construction of roads expenditure of Kshs.365,433,148.

611. Incomplete Referral Hospital Surgical Block

The County entered into a new contract for the proposed erection and completion of the Surgical Ward Block at a contract sum of Kshs.152,567,399 spread into phases 2022-2023 and 2023-2024 contracted for amount of Kshs.62,594,619 and Kshs.89,972,781, respectively. The contract duration was fifty-seven (57) weeks with new commencement and completion dates of: 1 June, 2023 and 30 December, 2024. However, despite a cumulative amount of Kshs.171,152,787 (2024 - Kshs.105,076,936) having been paid on the Surgical Block, the contract that was first signed on 21 December, 2016, the project is still incomplete to date.

In the circumstances, the public did not receive value for money on resources amounting to Kshs.105,076,936 spent on the project.

612. Unsupported Procurement of Certified Seeds, Breeding Stock and Live Animals

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects acquisition of assets expenditure amounting Kshs.1,658,251,382 out of which an amount of Kshs.36,037,980 was incurred on purchase of certified seeds, breeding stock and live animals. However, the expenditure of Kshs.36,037,980 was not supported with: report on user needs or feasibility studies to determine the viability of the proposed agricultural projects within the County, valid nursery phytosanitary inspection certificate and animal movement permits, evidence of accreditation of private companies by the Agriculturer and Food Authority or other relevant Government bodies. This was in breach of Section 16(1) of the Crops Act, 2013. Further, valuation certificates from the County Livestock Officers indicating the value of breeding stock delivered and the immunization certificates to validate the quality of the breeding stock were not provided for audit.

In the circumstances, value for money from the procurement worth Kshs.36,037,980 could not be confirmed.

613. Non-Compliance with the Climate Regulations

Annex 9 to the financial statements on reporting of climate relevant expenditures reflects three (3) unfunded projects on supply of: piped water, certified pasture seeds and borehole in respect Knengei, Kabarnet and Kalewen wards respectively. However, the Climate Change Fund received exchequer releases amounting to Kshs.193,138,012 on 30 June, 2024 hence the funds activities as planned in the Annual Work Plan were not carried out. Moreover, in the long run there was a risk that the County Government will not achieve its targets as highlighted in the Baringo County Climate Change Action Plan 2022-2027. Further, this would have a negative effect on the Country's ability to attain the Sustainable Development Goal Number 13 on Climate Action.

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

614. Unclaimed Deposits

The statement of assets and liabilities reflects deposits and retentions amounting to Kshs.96,616,798 as disclosed in Note 15 to the financial statements. However, retentions totalling Kshs.14,999,027 due to contractors have been held in the deposits

account for more than five (5) years contrary to Regulation 3 (d) of the Unclaimed Financial Assets Regulations, 2016 which requires that unclaimed monies held by a utility inter alia, any refund charges for utility services lawfully furnished, which shall have remained unclaimed by the person entitled for two years from the date they became payable, shall be deemed abandoned property. A person holding such presumed abandoned assets has a duty to make a report concerning the assets to the Authority in accordance with Section 20 of the Unclaimed Financial Assets Act, 2011.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

615. Internal Audit Function and Audit Committee Control Weaknesses

Review of the Internal Audit Reports and Audit Committee Minutes revealed the following anomalies:

- i. There was no evidence of action plan presented to the Chairperson of the Audit Committee on how the auditee intended to implement the recommendations from the internal audit department contrary to 165(1) of the Public Finance Management (County Government) Regulations 2015. Further, there was no report on implementation status of recommendation made by internal audit neither, evidence of follow-up on the recommendations to ensure they are implemented.
- ii. The Internal Audit did not provide a report on the assessment of its own effectiveness through an internal performance appraisal contrary to Regulation 159(1) of the Public Finance Management (County Governments) Regulations, 2015. Also, there was no evidence that Audit Committee carried out an annual review of the independence, performance and competency of internal audit unit contrary to Regulation 159(2) of the Public Finance Management (County Government) Regulations 2015.
- iii. Personal files for staff in the Internal Audit Unit revealed six (6) staff have been employed in the department, whereas, the staff establishment and strategic plan allowed for thirteen (13) staff which gives a variance of seven (7) staff required in the internal audit unit to enable the department to discharge its mandate effectively per Regulation 155(2) of the Public Finance Management (County Governments) Regulations, 2015.
- iv. The Audit Committee is required by law to meet at least once every three (3) months and also the Chairman of the Committee may call for special meetings if need be. The Committee held a total of three (3) meetings within the year under review contrary to Regulation 172(1) Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, effective controls in the internal audit department and audit committees could not be confirmed.

COUNTY EXECUTIVE OF LAIKIPIA – NO.31

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

616. Unsupported Payments on Supply of Fuel, Oil and Lubricants

The statement of receipts and payments and Note 4 to the financial statements reflect a balance of Kshs.634,753,611 under the use of goods and services which includes an amount of Kshs.42,652,059 for fuel, oils and lubricants. During the year under review, Management made payments for fuel, oil and lubricants to a local filling station amounting to Kshs.13,391,205. However, no evidence was provided for audit to confirm fuel usage, such as fuel registers, fuel detail orders and motor vehicle work tickets.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.13,391,205 on fuel, oils and lubricants could not be confirmed.

617. Variances on Basic Wages for Temporary Employees

The statement of receipts and payments and Note 3 to the financial statements reflect a balance of Kshs.2,949,101,094 with respect to compensation of employees. Included in the balance is an amount of Kshs.159,312,438 relating to basic wages for temporary employees. However, review of IFMIS payment records per department revealed that the actual payments for temporary employees totalled Kshs.166,847,112 resulting in an unexplained variance of Kshs.7,534,674.

In the circumstances, the accuracy and completeness of basic wages for temporary employees of Kshs.159,312,438 could not be confirmed.

618. Misclassification of Expenditure - Casual Workers

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects a balance of Kshs.904,674,180 being transfer to other Government entities. The balance includes current grants to Government agencies and other levels of Government balance of Kshs.634,357,322 out of which a payment of Kshs.35,602,667 was made to various banks for casual workers' payments in various hospitals under the County Executive. However, this amount was not classified under compensation of employees resulting in an understatement of the wage bill.

In the circumstances, the accuracy and completeness of basic wages for temporary employees of Kshs.159,312,438 could not be confirmed.

Emphasis of Matter

619. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects the final receipts budget and actual on a comparable basis of Kshs.7,080,656,223 and Kshs.5,390,366,893 respectively, resulting in an under-funding of Kshs.1,690,289,330 or 24% of the budget. However, the County Executive spent an amount of

Kshs.5,260,341,257 against actual receipts of Kshs.5,390,366,893, resulting in an under-expenditure of Kshs.130,025,636 or 2% of the actual receipts. Management has attributed the low absorption to late disbursement of the Exchequer by The National Treasury.

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

620. Late Exchequer Releases

The statement of receipts and payments and Note 1 to the financial statements reflect Exchequer releases totalling Kshs.5,363,059,747. Included in the balance is an amount of Kshs.423,822,066 received by the County Executive from The National Treasury on 28 June, 2024. In addition, other Exchequer releases amounting to Kshs.585,852,379 were disbursed by The National Treasury after the closure of the financial year under review.

In the circumstances, the late Exchequer releases affected the implementation of the planned activities in the year under review.

My opinion is not modified in respect of these matters.

Other Matter

621. Unresolved Prior-Year Issues

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

622. Failure to Prepare and Submit Financial Statements for Level 4 Hospitals

Management did not prepare and submit for audit financial statements for Ndindika and Lamuria Level 4 Hospitals as prescribed by the Public Sector Accounting Standards Board (PSASB) and communicated through The National Treasury Circular Ref. No. AG.4/16/3 Vol. II (66) of 06 July, 2022. This was contrary to Section 164(1) of the Public Finance Management Act, 2012 which provides that at the end of each financial year, the accounting officer for a County Government entity shall prepare financial statements in respect of the entity in formats to be prescribed by the Public Sector Accounting Standards Board.

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

623. Irregularities of Compensation of Employees

The statement of receipts and payments and Note 3 to the financial statements reflect an amount of Kshs.2,949,101,094 in respect of compensation of employees. Review of records revealed the following anomalies:

623.1 Over-Expenditure on Temporary Employees' Wages

The County Executive had an approved budget of Kshs.141,994,815 for basic wages of temporary employees. However, the expenditure of Kshs.159,312,438 exceeded the approved budget by an amount of Kshs.17,317,623. No explanation or justification was provided for this over-expenditure.

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

During the year under review, payments totalling Kshs.2,949,101,094 were made in respect of compensation of employees which represents 55% of the total receipts of Kshs.5,363,059,047 which is higher than the allowable level contrary to Regulation 25(1) (a) and (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's total revenue.

623.3 Non-Compliance with a Third of Basic Salary Rule

Review of the County Executive payroll revealed that seven hundred and thirty-three (733) employees earned net salaries of less than a third (1/3) of their basic salary. This is contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction from the wages of an employee shall not exceed two-thirds (2/3) of such wages.

623.4 Non-Compliance with Regulation and Guidelines on Acting Positions

During the year under review, Management paid two (2) of its staff members acting allowance for eleven (11) months. This was contrary to Section C.14(1) of the Public Service Commission, Human Resource Policies and Procedures Manual for the Public Service of 2016 C.14 (1) which states that acting allowance will not be payable to an officer for more than six (6) months.

623.5 Non-Compliance to the Law on Staff Ethnic Composition

Review of staff records revealed that the County Executive had a total of two thousand, five hundred and forty-seven (2,547) employees out of whom one thousand, eight hundred and one (1,801) or seventy-one (71%) were from the dominant ethnic community in the County. This was contrary to Section 7 (2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one-third of its staff from the same ethnic community. Further analysis revealed that Management had a total of seventeen (17) directors out of whom fourteen (14) or 82.4% were from the dominant community in the County.

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

624. Irregularities in the Procurement and Delivery of Dialysis Equipment

During the year under review, the Department of Health entered into a contract agreement for a sum of Kshs.96,297,500 with a local supplier for the supply of ten (10) dialysis beds, ten (10) dialysis machines, one (1) water treatment plant to Nyahururu Level 4 Hospital and five (5) dialysis beds and five (5) dialysis machines to Nanyuki Teaching and Referral Hospital. However, physical inspection carried out in September 2024 revealed that seven (7) beds were operational at Nyahururu Level 4 Hospital and Management explained that two were faulty and returned to the supplier while one broke down, with none replaced. At Nanyuki Teaching and Referral Hospital, only three (3) dialysis beds and machines were delivered instead of five (5).

Further, documents relating to procurement processes such as appointment of inspection and Acceptance Committee, signed professional opinion and approved user requisition were not provided for audit.

In the circumstances, value for money on the expenditure amounting to Kshs.96,297,500 for the supply of the dialysis equipments could not be confirmed.

625. Irregularities in Procurement and Payment for ICT Equipment

During the year under review, the County Executive paid an amount of Kshs.1,045,740 for the supply and delivery of two (2) phones and three (3) laptops through request for quotations (RFQ) procurement method. However, only one out of the three (3) companies that were sent request for quotations was prequalified. This was contrary to Section 106(2) of the Public Procurement and Asset Disposal Act, 2015 which mandates the accounting officer to issue requests for quotations only to persons that are registered by the procuring entity.

Further, market survey was not conducted, contrary to Regulation 91(4) of the Public Procurement and Asset Disposal Regulations, 2020. In addition, the payment was delayed from the 2021/2022 financial year to the 2023/2024 financial year, breaching Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which mandates that debt service payments be a first charge on the County Revenue Fund.

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

626. Irregular Procurement of Internet Services

The County Executive engaged a supplier to supply and deliver installation of internet services at a cost of Kshs.3,216,867 through a request for quotation as the preferred method of procurement. This was contrary to the provisions of the Second Schedule prescribed in Regulation 91(1) of the Public Procurement and Asset Disposal Regulations, 2020 which puts the maximum threshold for expenditure under the method to Kshs.3,000,000 for goods and services.

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

627. Irregular Payment to the Council of Governors

During the year under review, Management made payments totalling Kshs.3,000,000 to the Council of Governors. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the

structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

628. Irregular Payment of Allowances

During the year under review, the County Executive Department of Administration incurred an expenditure amount of Kshs.6,529,320 for allowances and PAYE deductions paid to administration police officers assigned to the County Executive premises and the Governor's residences. However, the allowances were paid directly to the Laikipia County Administration Police Welfare Account instead of The National Treasury, which contravenes Section 104(3) of the National Police Service Act, 2011 which stipulates that any payment for the private use of police services must be remitted to The Treasury.

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

629. Unsupported Expenditure on the Supply and Delivery of Tyres

The statement of receipts and payments and Note 4 to the financial statements reflect use of goods and services balance of Kshs.634,753,611 which includes an amount of Kshs.21,096,873 for routine maintenance of vehicles and other transport equipment. Out of this balance, Management incurred an expenditure amounting to Kshs.6,859,203 for the supply and delivery of tyres. However, the expenditure was not supported by motor vehicle maintenance logbooks showing repairs, driver defects reports, and pre- and post-repair inspection reports.

In the circumstances, value for money on the expenditure of Kshs.6,859,203 on the supply and delivery of tyres could not be confirmed.

630. Pending Bills Not Paid as First Charge

During the year under review, the County Executive had pending bills amounting to Kshs.2,168,777,615. However, pending bills totalling Kshs.2,018,917,691 were meant to be paid as a first charge in financial year 2023/2024 but were still outstanding as at 30 June, 2024. Some of these payables date back to the year 2015. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that debt service payments shall be a first charge on the County Revenue Fund and the accounting officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

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

631. Irregular Commitments for Supply of Goods and Services

Review of procurement records revealed that ninety-eight (98) sets of expenditure commitments and contracts for various supplies of goods and services totalling Kshs.94,412,495 were made after 31 May, 2024 without the written approval of the Accounting Officers. This was contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that all commitments for the supply of goods or services shall be done not later than the 31 May each year except with the express approval of the Accounting Officer in writing.

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

632. Unremitted Statutory Deductions

Annex 16.2 (b) reflects a balance of Kshs.394,917,845 as payables to third parties. Included in the balance is a total of Kshs.105,055,570 being unremitted statutory deductions. The deductions were made up of LAPTRUST and LAPFUND defunct local authorities (interest levied), NSSF (outstanding contributions), and NSSF (interest levied and penalties). However, no explanation was provided for the failure to remit the deductions to the various bodies. This was contrary to Section 19(4) of the Employment Act, Cap 226, which states that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) of the Act shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement, court order or arbitration as the case may be.

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

633. Failure to Utilize Fully on the E-Procurement Platform

Review and inquiry from the procurement department regarding the utilization of the e-procurement module in IFMIS revealed that while all procurement plans were developed in IFMIS, some procurement of goods, works, and services was conducted manually. Consequently, the requisition, approval of requisitions, tendering, issuance of purchase orders, and invoicing for goods and services were processed manually. This contravened Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 and Executive Order No. 2 of 2018, Part IV (B), which mandated that as of 01 January, 2019, all public procuring entities must carry out all procurement activities through the e-procurement module.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

634. Internal Audit Function and the Audit Committee

Review of the County Executive Internal Audit Function and the Audit Committee revealed the following:

634.1 Ineffective Internal Audit Department

The department lacked financial and functional independence due to insufficient budget allocation. Audit plans and programs did not cover critical areas such as hospitals, revenue collection, and verification of infrastructural projects. Despite the County Executive managing multiple funds and entities, the Internal Audit Function prepared only six (6) reports during the year under review, primarily focusing on cash management issues.

634.2 Action on Internal and External Audit Reports by the Audit Committee

The internal audit presented six (6) audit reports. However, none of these reports were discussed by the Audit Committee and resolved. In addition, the Auditor-General had issued reports for the year 2022/2023 for eight (8) funds, the receiver of revenue, revenue board, county revenue fund, county corporation, and the County Executive financial statements but none had been discussed by the Audit Committee.

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

635. Payment of Staff Outside the Integrated Personnel and Payroll Database

During the year under review, Management paid an amount of Kshs.159,312,438 to employees outside the Integrated Personnel and Payroll Database IPPD system through a manual payroll system. These employees included drivers, unskilled Labours, ECDE teachers, and health workers. Further, Management paid an amount of Kshs.35,602,667 to casual workers in various hospitals under current grants. Management did not provide reasons to support the practice which is prone to errors and misstatements.

In the circumstances, the adequacy and effectiveness of internal controls in processing wages through a manual payroll system could not be confirmed.

636. Weakness in Management of Fixed Assets

Audit of summary of fixed assets and asset register revealed the following weaknesses:

636.1 Lack of Land and Buildings' Register

The County Executive did not maintain a register of land and buildings. They did not record each parcel of land and the terms on which it was held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms, maintenance contracts and other pertinent management details.

636.2 Failure to Tag Assets

The County Executive's assets were not tagged as a mechanism of tracking them and Management had not established policies and procedures on assets management as required by Section 132(2) of Public Finance Management (County Governments) Regulations, 2015 that provides that an Accounting Officer shall ensure that processes and procedures both electronic and manual are in place for the effective, efficient, economical and transparent use of the county government entity's assets.

636.3 Non-disposal of Obsolete and Unserviceable Assets

Defective and unserviceable motor vehicles have been grounded in parking yards in the County for a considerable period of time. However, no explanation was given as to why the unserviceable motor vehicles and transport equipment have not been bonded and earmarked for disposal in line with Section 163(1) of the Public Procurement and Asset Disposal Act, 2015 which requires that an accounting officer

shall establish a disposal committee as and when prescribed for the purpose of disposal.

636.4 Lack of Ownership Documents and Failure to Maintain Asset Register in the Prescribed Format

The asset register maintained was not prepared in a format prescribed by IPSAS 17 whose minimum requirements are; Identification or serial number, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value. Further, ownership documents for motor vehicles, land and buildings were not provided.

In the circumstances, the ownership and existence of effective internal controls on management of fixed assets could not be confirmed.

COUNTY EXECUTIVE OF NAKURU – NO.32

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

637. Undisclosed Decrease in Retention Money

The statement of cash flows reflects Nil balance in respect of increase/(decrease) in deposits and retentions. However, Note 18 to the financial statements reflects a decrease in deposits and retentions amount of Kshs.104,985,718 resulting to a variance of Kshs.104,985,718 not disclosed in the statement of cash flows.

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

638. Inaccuracies in the Compensation of Employees

The statement of receipts and payments reflects compensation of employees amount of Kshs.6,447,452,070 as disclosed in Note 3 to the financial statements. Review of the supporting ledgers revealed that some of the expenditure components had variances as detailed in the table below;

Item	Amount as per Financial Statements (Kshs)	Amount as per Ledger (Kshs)	Variance (Kshs)
Basic Salaries of Permanent Employees	3,122,265,279	2,676,346,465	(445,918,813)
Basic Wages of Temporary Employees	272,009,423	454,835,176	182,825,752
Personal Allowances Paid as Part of Salary	2,363,511,258	2,606,793,708	243,282,450
Pension and Other Social Security Contributions	403,017,635	390,572,243	(12,445,392)
Other Personnel Payments	84,385,129	115,073,979	30,688,850

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.6,447,452,070 for the year ending 30 June, 2024 could not be confirmed.

639. Irregularities in the Use of Goods and Services

639.1 Unsupported Expenditure on Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services amount of Kshs.3,575,821,135 which includes a balance of Kshs.366,827,400 which was incurred on domestic travel and subsistence as disclosed in Note 4 to the financial statements. The latter amount includes an expenditure of Kshs.19,566,952 in relation to trainings which were not supported by a comprehensive training needs assessment. This was contrary to Human Resource Policies and Procedures Manual for the Public

Service May, 2016. Further, it was not clear how the officers were nominated for the respective trainings without evidence of training projections based on the training needs assessment.

639.2 Unsupported Training Expenses

Included in the use of goods and services amount of Kshs.3,575,821,135 is an amount of Kshs.93,316,938 incurred on training expenses. However, the training expenses were not based on a training policy, training needs assessment plan, departmental skills inventory records and course approvals. The criteria of selection of personnel to attend various trainings could not be established, training bonding of employees may not have been adhered to and trainings may have been attended but without much value for money being realized.

In the circumstances, the accuracy and value for money for the goods and services expenses of Kshs.93,316,938 could not be confirmed.

640. Misclassification of Expenditure

640.1 Misclassification of Foreign Travel and Subsistence Expenditure

The statement of receipts and payments reflects use of goods amount of Kshs.3,575,821,135 which includes an expenditure of Kshs.22,495,691 incurred on foreign travel and subsistence as disclosed in Note 4 to the financial statements. Included in the latter amount is an expenditure of Kshs.5,885,363 in relation to domestic travel and subsistence that was wrongly classified.

640.2 Misclassification of Routine Maintenance-Other Assets Expenditure

The expenditure on use of goods and services of Kshs.3,575,821,135 includes routine maintenance-other assets amount of Kshs.114,431,122 as disclosed in Note 4 to financial statements. However, included in the expenditure of Kshs.109,574,525 were payments amounting to Kshs.15,967,213 which were not related to repairs and maintenance.

640.3 Misclassification Purchase of Office Furniture and General Equipment Expenses

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,838,415,500 as disclosed in Note 9 to the financial statements. Included in the amount is a balance of Kshs.38,690,262 relating to purchase of office furniture and general equipment. However, the latter amount includes a balance of Kshs.25,771,536 which was in respect of expenditure items that were misclassified.

640.4 Unconfirmed Cash and Bank Balances

The statement of assets and liabilities as disclosed in Note 13A to the financial statements reflects total bank balance of Kshs.3,940,844,221 in respect of twenty-eight (28) bank accounts maintained by the County Executive at various banks. However, the cashbooks provided for audit reflected a total balance of Kshs.3,601,335,556 resulting in an unexplained variance of Kshs.339,508,665. In addition, review of the bank reconciliation statements provided disclosed bank charges of Kshs.19,390 that had not been recorded in the cashbooks as at 30 June, 2024.

Review of the bank reconciliation statement for one of the recurrent account held at CBK revealed that there were five (5) stale cheques amounting to Kshs.1,125,461

which remained outstanding as at 30 June, 2024. Management did not provide an explanation why the cheques had not been reversed in the cash book.

640.5 Inaccuracies In the Summary of Non-Current Assets Register

Annex 6 to the financial statements on summary of fixed assets register reflected a balance of Kshs.21,727,931,008 in respect of various assets held by the County Executive. However, the following anomalies were observed;

- i. The asset registers and the non-current assets register summary at Annex 6 to the financial statements revealed variances in respect of fixed assets as detailed in the table below;

Item	Historical Cost c/f as per the Summary of Non- Current Assets Register (Kshs)	Acquisition Amount as per Assets Registers (Kshs)	Variances (Kshs)
Motor vehicles	1,250,108,134	1,310,375,770	(60,267,635)
Land	312,841,059	5,133,836,248	(4,820,995,189)
Transfers in(out) during the year- Motor vehicle write offs	(25,413,306)	(26,499,791)	1,086,485

- ii. The additions amount of Kshs.2,838,415,500 during the year includes ICT equipment balance of Kshs.67,202,985 that was not reflected in Note 9 to the financial statements on acquisition of assets.
- iii. Review of the land register provided for audit revealed that four hundred and ninety (490) parcels of land did not have any historical value indicated against them and it was therefore not possible to determine the total historical value of land held by the County Executive.
- iv. Review of the non-current assets registers provided for audit revealed that the registers were not updated as required by Regulation 136 of the Public Finance Management (County Governments) Regulations, 2015. The registers lacked key information including identification or serial numbers, acquisition date, description of asset, location, class, cost of acquisition for some of the assets, land reference/certificate number, ownership details as per ownership documents, asset condition and ownership documents held. It was observed that several assets were not tagged.

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

641. Voided Transactions

Review of the County Executive's system payments revealed that five hundred and seventy (570) transactions amounting to Kshs.308,061,121 were voided during the financial year 2023/2024. However, Management did not provide the supporting approvals and justification for the voided transactions amounting to Kshs.308,061,121.

In the circumstances, regularity of the voided transactions amounting to Kshs.308,061,121 could not be confirmed.

642. Unsupported Legal Fees

The statement of receipts and payments reflects use of goods and services amounting to Kshs.3,575,821,135 as disclosed in Note 4 to the financial statements. Review of legal records provided revealed that the County Executive made payments of Kshs.22,643,700 in respect of legal fees to six (6) law firms. Documentation such as how the law firms were identified, signed service level agreements, certificates of appointment, evidence of court attendance, fee notes and monthly performance reports from each law firm in respect of each case were not provided for audit.

Further, despite the County Executive having recruited its own County Attorney, the private law firms were engaged to represent the County Executive in court cases without approvals by the County Executive Committee contrary to Section 16(1) of the Office of the County Attorney Act, 2020. There was also no approval or authority by the Attorney General contrary to directives issued by the Attorney General vide the Circular Ref. No. AG/CONF/6/D/144 Vol.XI dated 03 November, 2020.

In the circumstances, accuracy and completeness of the expenditure of legal fees amounting to Kshs.22,643,700 could not be confirmed.

Emphasis of Matter

643. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.23,310,531,513 and Kshs.16,362,575,304 respectively, resulting in under-funding of Kshs.6,947,956,209 or 30% of the budget. However, the County Executive spent an amount of Kshs.15,661,259,832 against actual receipts of Kshs.16,362,575,304, resulting in an under-performance of Kshs.701,315,472 or 4% of the receipts.

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

644. Authenticity of Pending Bills

Note 1,2 and 3 of the financial statements on other important disclosures reflects pending accounts payables, pending staff payables and other pending payables balance of Kshs.1,441,352,540, Kshs.28,535,088 and Kshs.8,873,766 respectively all totalling to Kshs1,478,761,394 as at 30 June, 2024. Included in the pending accounts payables for the year are bills relating to 2022/2023 and prior years with some dating as way back as 2011/2012 financial year and which have remained outstanding since then. This was contrary to Regulation 150(1) of the Public Procurement and Assets Disposal Regulations, 2020. Further, the County Executive did not have a Pending Bills Committee contrary to the Inter-Governmental Budget and Economic Council (IBEC) circular of 18 June, 2019 that require all Counties to establish County Pending Bills Committee. Therefore, there was no proper mechanism in place for verifying the eligibility or otherwise of the disclosed bills of Kshs.1,478,761,394.

My opinion is not modified in respect of these matters.

Other Matter

645. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management indicated that some of the issues raised had not been resolved and no explanation was provided for this unsatisfactory situation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

646. Project Implementation

Review of project implementation status revealed that out of the one thousand, seven hundred and twenty-one (1,721) projects featured in the report;

- i. Seventeen (17) projects with a total contract cost of Kshs.66,297,783.50 were incomplete and at different stages of execution. The projects had extended beyond the expected dates of completion. Management did not provide any documentary evidence to support the extension of contract period or explaining the delays in completion.
- ii. Twenty-six (26) projects with a total contract price of Kshs.56,189,717 had stalled at different stages with different explanations being given for each. Management did not provide for audit the strategies on the way forward or any action taken on the contractors for failure to execute the projects to completion.
- iii. Kshs.95,521,099 meant for twenty-one (21) projects during the financial year 2023/2024 were reallocated to other budget items. There was no explanation or documentary evidence or approvals provided by Management to support the reallocations. This was contrary to Section 154 of the Public Finance Management Act, 2012 which limits the power of an accounting officer to reallocate appropriated funds and Regulation 47(5) of the Public Finance Management (County Government) Regulations, 2012 which requires that such reallocations be approved by the accounting officer of the entity.
- iv. Five hundred and sixty-five (565) projects started in several accounting years with a total contract price of Kshs.7,497,850,588 were still ongoing and at different levels of execution. The projects were already past their expected completion dates. No valid explanations or documentary evidence in form of project extensions or addendums were provided for audit verification explaining the delays in completions. Management did not also provide evidence of action taken against the contractors for delayed completion of projects.
- v. Twenty-four (24) projects with a total contract cost of Kshs.59,317,164 awarded during the financial year 2023/2024 were yet to commence. Management did not offer any explanations as to why the projects were yet to commence.

In the circumstances, there was no value for money and timely realization of benefits accruing from budget allocations.

647. Failure to Disclose Contingent Liabilities

Review of legal records provided revealed that several legal cases filed in court against the County Executive were decreed in the interest of the claimants and amounted to Kshs.154,906,998 out of which Kshs.66,472,548 had been paid leaving a balance of Kshs.88,434,450. However, the County Executive did not disclose the contingent liability of potential court awards in the financial statements over the years. This was despite having knowledge that there were numerous cases in court against the County Executive which may have a financial implication in the future.

In the circumstances, value for money on the payment of court decrees amounting to Kshs.66,472,548 could not be confirmed.

648. Delay in the Construction of Treasury Headquarters

The contract period for the project lapsed on 1 December, 2022 and was renewed up to 04 October, 2024. This extension that was the final one had also lapsed. Further, the Architects were paid an amount of Kshs.54,189,963 for structural and architectural plan (designs) consultancy services. However, the designs had not been approved by National Construction Authority and the Physical Planning Department.

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

649. Acquisition of Land by the Department of Lands

The Department purchased four (4) parcels of land during the year under review for different projects within the county. The following anomalies were noted;

- i. The Department acquired 4.17 acres of land for an amount of Kshs.6,490,000 out of which an amount of Kshs.4,490,000 was paid during the year under review for construction of an ECD Centre at Mbombo in Elementaita Ward Gilgil Sub County. However, evidence of official search and consent from the Lands Control Board was not provided for audit. Further, partial payment amounting to Kshs.4,490,000 was done on 28 June, 2024 even though the sale agreement was executed on 3 February, 2021. It was not clear why the payment was done several years after the sale agreement was signed.
- ii. The Department acquired 0.43 Ha of land for Kshs.2,000,000 for road opening in Githengera St. John Community Gilgil. However, as at the time of audit there was no evidence that consent to sell had been granted by the land control board and search documents were incomplete. Transfer of interest in land was not fully executed.
- iii. The Department acquired two pieces of land for an amount of Kshs.2,000,000 each for St. John water. However, as at the time of audit there was no evidence that consent to sell had been granted by the land control board and search documents were incomplete. Transfers of interest in land were not fully executed.
- iv. The Department acquired land in Elburgon Township at an amount of Kshs.5,000,000 out of which Kshs.1,000,000 was paid during the financial year under review, for construction of Kasarani Health Centre in Elburgon Ward. However, as at the time of audit there was no evidence that consent to sell had been granted by the land control board. Further, transfer of interest of land or

proof of transfer of ownership were not provided for audit even though full payment had been made.

In the circumstances, value for money for the payments already done could not be confirmed.

650. Project Verification - Department of Water and Irrigation

The Department of Water and Irrigation awarded tenders to various contractors to supply pipes and fittings and drill boreholes totalling Kshs.84,457,359. Physical inspection of projects revealed that project sign posts were missing, pipe marks where the pipes were laid were not installed and there was no water connections and distributions at the piping ends. Hence the objective of providing water to the residents were not achieved.

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

651. Implementation of Contracts – Department of Youth, Gender, Sports and Social Services

The Department of Youth, Gender, Sports and Social Services undertook procurement for various works with a total contract amount of Kshs.25,429,026. Audit of the project revealed various anomalies which included; projects paid full amount without practical certificate of completion and handover certificates, projects extended beyond contract period with no approval, incomplete projects that had the contract sums fully paid with no ownership documents and one project with significant time lapse between issuance of the Local Purchase Order and signing of the contract agreement. Further, the same project renovations were not supported by pre-inspection reports and certificates of practical completion and handover. Management did not provide any explanation for the anomalies.

In the circumstances, value for money of the expenditure incurred on the contracts could not be confirmed.

652. Delay in Implementation of Projects

652.1 Menengai and Kiamaina Water Project

A contractor was contracted for the purchase and supply of water pipes at a contract sum of Kshs.5,703,650 to Menengai and Kiamaina water projects. However, the records provided for audit did not include delivery notes, counter receipt vouchers, inspection and acceptance committee report and distribution of items to the two sites.

Further, physical inspection carried out on 02 October, 2024 revealed that the supplies were issued to the community for implementation of the project without any accountability mechanism being put in place by the Accounting Officer. In addition, the supplies were stored in nearby public secondary schools' classrooms and private residences without any security arrangements thereby exposing them to damage, theft and/or misappropriation. In addition, the project site was not clearly defined and pipe way leaves had not been acquired thereby compromising the project execution and objective.

652.2 Rapland Water Project

A contract was awarded at a cost of Kshs.9,570,162 for the purchase and supply of water pipes to Rapland water project at the County headquarters. However, physical inspection carried out on 02 October, 2024 revealed that the supplies were delivered to Naivasha Water and Sanitation Co. Ltd. for implementation of the project without any accountability mechanism being put in place by the Accounting Officer. Further, the goods delivered at Naivasha Water and Sanitation Co. Ltd. were not supported by counter receipt vouchers and stores records. In addition, the supplies were lying at the company's compound. The project site was not defined and pipe way leaves had not been acquired thereby delaying the project execution and objective. The County Executive lacked clear project objectives and guidelines for accountability of materials being delivered.

In the circumstances, the County Executive and the public may not obtain value for money from the purchase and supply of water pipes at a total cost of Kshs.15,273,812.

653. Lack of Feasibility Study for the Construction of County Aggregation and Industrial Park

The County Executive through the Department Trade transferred an amount of Kshs.250,000,000 from the development account to Nakuru County Aggregation and Industrial Park account held at a local bank for construction of Nakuru County Aggregation and Industrial Park.

The contract for the construction of Nakuru County Aggregation and Industrial Park was awarded in the financial year 2023/2024 with a contract sum of Kshs.464,221,150 and was equally funded by the County Executive and the National Government. It was however not clear how the location of the industrial park was identified because feasibility study reports were not provided for audit. Further, it was also not possible to confirm ownership of the piece of land as ownership documents were not provided for audit.

In the circumstances, the public may not obtain value for money for the transferred amount of Kshs.250,000,000.

654. Failure to Utilize Completed Projects

Physical inspection of the projects under the Department of Health carried out on 08 October, 2024 revealed that four (4) projects totalling Kshs.30,217,614 were complete and certificates of practical completion issued.

However, the projects were not in use due to non-equipping in three (3) of the facilities and non-installation of generators in one of the facilities. Further, one of the project prime cost on project management and expenses amounting to Kshs.190,000 was not supported

In the circumstances, value for money on the amount of Kshs.30,217,614 spent on the projects could not be confirmed.

655. Irregular Procurement of Drugs and Medical Supplies

Review of the IFMIS payment details for the year under review revealed that the Department of Health procured medical drugs worth Kshs.114,697,212, out of which an amount of Kshs.51,609,662 was procured from other various suppliers leaving a

balance of Kshs.63,087,550 that was rightfully procured from Kenya Medical Supplies Authority (KEMSA). This was contrary to Section 4(1)(c) and (e) of the Kenya Medical Supplies Authority Act, 2013 which states that the functions of the Authority shall be to - enter into partnership with or establish frameworks with County Governments for purposes of providing services in procurement, warehousing, distribution of drugs and medical supplies; and support county governments to establish and maintain appropriate supply chain systems for drugs and medical supplies.

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

656. Proposed Construction of Outpatient Block at Njoro Level 4 Hospital

The County Executive contracted a tender for the proposed construction of outpatient and inpatient block at Njoro Level 4 Hospital at a contract sum of Kshs.147,538,940. However, the contract period was not specified in the contract agreement. The total amount paid to the contractor as at 30 June, 2024 was Kshs.120,121,170.

During the year under review, payment certificate number 6 amounting to Kshs.10,563,816 was paid for works done as per the bills of quantities provided. Physical inspection of the project carried out on 08 October, 2024 however revealed that payment certificates was not supported by way of inspection and acceptance reports on the work done as per the certificates and joint measurement of works to quantify the works done. In addition, the verification revealed that the workmanship was poor as there were visible wear and tear on some finished walls and doors and that the contractor was not on site despite the project still ongoing.

In the circumstances, the public may not obtain value for money on the expenditure of Kshs.10,563,816 during the year.

657. Irregular Payment of Salaries Outside the Integrated Payroll and Personnel Database

Review of the Integrated Payroll and Personnel Database (IPPD) payroll for June, 2024 revealed that salaries amounting to Kshs.1,067,250 made to thirteen (13) officers outside the IPPD system. This was contrary to Treasury Circular No.13/2019 of 28 August, 2019. Monthly payroll reconciliation may not have been done in time hence omitting some names from the payroll.

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

658. Non-Compliance with Law on Recruitment of Staff Living with Disabilities

Review of the Human Resource Integrated Payroll and Personnel Database (IPPD) Compliment data as at 30 June, 2024 revealed that out of the five thousand, three hundred and sixty-five (5,365) employees, eighty-five (85) were public officers living with disability or 2% of the total staff. This was contrary to Article 54 (2) of the Constitution of Kenya and Section B.23 (1) and (2) of the Human Resource Policies and Procedures Manual for the Public Service, May, 2016.

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

659. Irregular Engagement of Casuals

Review of the Integrated Financial Management Information System (IFMIS) payment details for the year under review revealed payments amounting to Kshs.2,151,819

paid to twenty (20) casuals for a period exceeding three months during the year under review. Further, the various departments within the County Executive maintained casuals without the required approvals from the County Public Service Board (CPSB).

This was contrary to Section 37(1)(b) of the Employment Act, 2007 which stipulates that casual employment should be converted to term contract where a casual employee performs work which cannot reasonably be expected to be completed within a period, or a number of working days amounting in the aggregate to the equivalent of three months or more, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly.

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

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

Review of the human resource Integrated Payroll and Personnel Database (IPPD) Compliment data as at 30 June, 2024 revealed that the County Executive had Five thousand, three hundred and sixty-five (5,365) employees out of which two thousand, five hundred and forty-nine (2,549) or 48% were from dominant ethnic community in the County. Further it was observed that three thousand, nine hundred and seventeen (3,917) staff or 73% of the work force were from the two dominant communities in the County. This was contrary to the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

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

661. Payroll Deductions in Excess of Two-thirds of Basic Pay

Review of the Integrated Payroll and Personnel Data base (IPPD) payroll revealed that a total of one thousand, one hundred and eighty (1,180) officers earned net pay lower than a third of their basic salary during various months in the financial year.

Further, it was observed that fifteen (15) officers continuously had deductions in excess of two-thirds of their basic pay for the entire financial period. This was contrary to Section 19(3) of the Employment Act, 2007.

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

662. Irregular Operation of Accounts in Commercial Banks

Review of cash and bank records revealed that the County Executive operated fifteen (15) accounts with commercial banks instead of the Central Bank of Kenya. This was contrary to Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

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

663. Retention of Employees Beyond the Mandatory Retirement Age

Review of the Integrated Payroll and Personnel Data base (IPPD) revealed that seventy-seven (77) officers who drew salaries totalling Kshs.36,165,612 during the financial year under review were still in service despite attaining the mandatory retirement age of sixty (60) years. This was contrary to Section D.21 of the Human Resource Policies and Procedures Manual for the Public Service May, 2016.

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

664. Assets Without Ownership Documents

Review of the land registers provided for audit revealed that the entity did not have ownership documents inform of title deeds for nine hundred and ninety-six (996) parcels of land of undetermined value and indicated to be owned by the County Executive. No explanation was provided on why the County Executive lacked title deeds for the parcels of land. Further, review of the motor vehicles register revealed that the register failed to indicate whether the entity had logbooks for the four hundred and forty-five (445) motor vehicles it held.

In addition, the original map of Njoro Central DEB Primary School indicated the school was originally occupying 1.75ha of land or approximately 4.32 acres. Currently the school sits on 1.35 acres as per the allotment letter dated 10 June, 1997. However, the allotment has been contested by the local community in Court and the judgement yet to be delivered. Illegal settlers have encroached on a section of the school which has jeopardized the existence of the School resulting to lack of a playing ground and future development space. Physical inspection of school projects within Nakuru County on 08 October, 2024 revealed that ten (10) schools did not have land title deeds at the time of the audit.

In the circumstances, the ownership of the land and motor vehicles indicated in the asset registers and being used by Nakuru County Schools could not be confirmed.

665. Supply, Installation and Commissioning of the Revenue Management System

The County Executive entered into an agreement with a supplier on 01 December, 2020 for the Supply, Installation, Configuration and Commissioning of the Integrated Revenue Collection Management System at a contract sum of Kshs.34,510,000. According to the terms of reference (TORs) the vendor was to ensure that the County Executive was maximizing the revenue but there had been no much improvement in the revenue collection since its installation. Further, Clause 3.1.2 of the contract agreement states that upon completion of the supply, the client shall pay 4.3% of the total revenue processed and collected through the system on a monthly basis.

During the year under review, the supplier of the system had been paid a total of Kshs.57,739,727 being 4.3% of the total revenue collected during the year under review. However, Management did not demonstrate that the County Executive's revenue collection had improved significantly from the previous year's collections as was envisaged in the TORs of the contract yet the Consultant was being paid a fee of 4.3% on total revenue collected on a monthly basis.

In the circumstances, value for money for the expenditure of Kshs.57,739,727 spent on the system could not be confirmed.

666. Construction of High-Altitude Training Facility Keringet Sports Center

The County Executive, through the Department of Youth, Gender and Sports, contracted to a local contractor the construction of a high-altitude training facility in Keringet ward. The contract was signed on 10 February, 2021 and the contract sum was agreed at an amount of Kshs.121,997,573. Further, the contract period was from

10 February, 2021 for a period of forty-two (42) weeks from the date of contract and was to end on 10 October, 2021. However, the title deed for the procured land and the performance bond for the project was not provided for audit.

Review of records revealed that payments amounting to Kshs.96,087,948 or 78% of the contract sum had been made as at 30 June, 2024. The amount includes Kshs.17,057,176 paid during the year under review for certificate No. 8. However, physical verification of the works revealed that the main contractor had not completed the works thirty (30) months after the expected completion date and was not on site. In addition, there was no evidence provided that the contract period had been extended.

Another contractor was contracted at a contract cost of Kshs.18,431,860 for mechanical works and borehole drilling at the Keringet Sports Center. The contract start date was 22 May, 2023 and was expected to end on 22 November, 2023. However, physical inspection of the project revealed that the borehole had been drilled but there were incomplete works as detailed below:

- (i) Equipping and water treatment had not been done.
- (ii) Plumbing and drainage works for abolition block at a cost Kshs.1,680,730 had not been done; and
- (iii) External water reticulation and lawn irrigation works at a cost Kshs.3,364,500 were outstanding.

Another contractor was contracted for construction of two dormitories, kitchen, dining area and a shed at a contract sum of Kshs.16,999,852 at Keringet Sports Center. The contract was signed on 23 February, 2021 and the contract completion date had been agreed to be 23 May, 2024. However, physical inspection of the project revealed that the works were all incomplete and the contractor was not on site despite the contract period having lapsed.

In the circumstances, value for money on the expenditure incurred on the project and the expected service delivery to the public could not be confirmed.

667. Failure to Establish Departmental Training Committees

Management did not establish departmental training committees which may have negatively impacted the efficient management of the training function of the County Executive. This was contrary to Paragraph I.2 (1) of the County Public Service Human Resource Manual, 2013 that requires the County to establish Departmental Training Committees to manage the training function.

In the circumstances, Management was in breach of the Regulations and the County Executive's policies.

668. Compensation of Employees Beyond the Set Threshold

The compensation of employees amounts of Kshs.6,447,452,070 was equivalent to 39% of the County Executive's total revenue of Kshs.16,362,575,304 which exceeded the prescribed limit of 35%. This was contrary to Regulation 25 (1) (a) and (b) 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

669. Lack of a Fraud Policy

The County Executive did not have in place a Fraud Management Policy to assist in detecting and preventing fraud during the year under review. It was therefore not possible for Management to put any measures that could assist in detection and prevention of fraud contrary to Regulation 158 of the Public Finance Management (County Governments) Regulations 2015.

In the circumstances, the effectiveness of internal controls in relation to the detection and prevention of fraud in the County Executive could not be confirmed.

670. Non-Establishment of an Audit Committee

The County Executive did not establish an Audit Committee responsible for monitoring the County's governance process, accountability process and control systems, follow up on the implementation of the recommendations of internal and external audit. In addition, the Head of Internal Audit reports directly to the Accounting Officer hence the operational independence of the Internal Audit Unit could not be guaranteed. This was contrary to Section 155 (5) of the Public Finance Management Act, 2012.

In the circumstances, Management was in breach of the law and the effectiveness of assessment of internal controls, risk management and governance could not be confirmed.

671. Lack of Risk and Disaster Management Policy

Management of the County Executive did not establish a Risk and Disaster Management Policy; strategies and a Risk Register to mitigate against risk. This was in contravention of Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, there was risk that Management may not identify possible risk areas and mitigate against them which may lead to subsequent loss of funds by the County Executive.

672. Non-Compliance with Climate Change Regulations

The Nakuru Climate Change Act, 2021 provided for establishing of County Climate Change Steering Committee and County Climate Change Planning Committee. However, the composition of the approved committees chaired by the Governor were not provided for audit. Further, there were no reports on sectoral greenhouse gas emissions for the national inventory submitted by the County Executive. The County Executive had not designated a unit with sufficient staff and financial resources, along with appointing a senior officer to coordinate the mainstreaming of the climate change action plan and other climate change statutory functions into sectoral strategies. In addition, there were no mechanisms implemented by the County Executive to regularly monitor and review the performance of integrated climate change.

The County Executive did not have annual reports submitted to the Council, detailing the status and progress of performance and implementation of all assigned climate change duties and functions. Therefore, it was not possible to establish that public participation and consultations were done when developing strategies, laws, and policies relating to climate change.

In the circumstances, climate change regulations have not been properly integrated into the County Executive's action plans.

673. Lack of an Inventory Management System for the Health Stores

Review of the store records from the Pharmacy Department at the Nakuru County Referral and Teaching Hospital on 08 October, 2024 revealed that drugs amounting to Kshs.1,799,849 that had since expired during the year under review were still in the stores. It was observed that the Department had failed to develop proper internal controls to monitor the stock levels and nature of stores as envisaged under Regulation 158(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the efficiency and economy in the management of the medical drugs could not be confirmed.

674. Closure of Nakuru War Memorial Hospital

Nakuru War Memorial Hospital which is a Level 4 Hospital has remained closed and idle since the expiry of the lease due to ownership wrangles between the County Executive and War Memorial Hospital Management as the subject of a Court case as which is ongoing. The hospital also hosts Nakuru Provincial General Hospital Annex and State House Landing field/helipad. The Nakuru War Memorial Hospital has various installations, equipment, buildings and other assets which are worth millions of shillings and which the National and County Governments had invested in over the years. These assets risk becoming obsolete or unserviceable or being lost or misused due to the many years of being idle.

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

COUNTY EXECUTIVE OF NAROK – NO.33

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

675. Inaccuracies in Pending Accounts Payable

Notes 13(1) and 13(2) to the financial statements reflects pending accounts payable and pending staff payables balances of Kshs.618,888,103 and Kshs.154,318,224 respectively. However, a recalculation of the supply of services amount reflected in Note 13(1) to the financial statements, made up of opening balance of Kshs.580,245,413 and amount paid during the year of Kshs.272,236,664 results to Kshs.308,008,749 leading to an unexplained and unreconciled variance of Kshs.112,558,088.

Further, review of the pending bills listing revealed that there were some payables dating back to the financial year 2013/2014 that have remained outstanding contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations. In addition, the County Executive did not maintain a register with details of ages of the bills, opening amounts, additions during the year, payments as well as the closing balances.

In addition, although report of the Pending Bills Resolution Committee to verify eligible or ineligible pending bills was provided, it was not conclusive as to determine the eligibility of the pending bills reported in the financial statements.

Review of the expenditure documents on construction of roads also revealed that payments amounting to Kshs.400,752,554 was made to contractors as pending bills which have been outstanding for more than one year, dating back to 2020/2021 financial year. However, the pending bills could not be traced in the previous year's audited pending bills records. Management did not explain why the pending bills were not included in the financial statements of the years in which they occurred.

In the circumstances, the accuracy and existence of the pending accounts payables and pending staff payables balances of Kshs.618,888,103 and Kshs.154,318,224 respectively could not be confirmed.

676. Unsupported Expenditure on Tagging of Rhinos

The statement of receipts and payments reflects use of goods and services amount of Kshs.3,939,697,705 which includes an amount of Kshs.313,587,476 in respect to domestic travel and subsistence which further includes an amount of Kshs.4,401,000 spent towards the ear-notching and fitting of transmitters on twenty (20) black rhinos in the Maasai Mara National Reserve. The fuel consumed during the exercise was not supported with detailed order and work tickets. Further, delivery notes, counter issue forms (S11) and counter receipt forms (S13) were not provided to confirm the amount of Kshs.901,000 spent on immobilization drugs, reversal agents, darting accessories and medical consumables.

In addition, the amount of Kshs.3,939,697,705 includes specialized material and services amount of Kshs.770,666,382 which further includes amounts of Kshs.2,172,800 and Kshs.1,568,000 paid to Department for Tourism and Kenya Wildlife Service personnel respectively which were not supported with Memorandum of Understanding with the Department and Service.

Further, the hired company for the provision of helicopter services was not in the list of registered suppliers for the County Executive for the year under review.

In the circumstances, the accuracy and completeness of the expenditure amount of Kshs.8,141,800 could not be confirmed.

677. Unsupported Reallocation of Expenditure

Review of the IFMIS payment details revealed that sixteen (16) transactions with a total expenditure of Kshs.183,474,862 were paid from the sub-item of Other Capital Grants and Transfers. However, the expenditure related to payment of individuals, organizations, suppliers and contractors and not Government Agencies or Entities. Management explained that the re-allocations were due to inadequate budgetary provisions on the respective expenditure items. The approval for the re-allocations and the respective journal vouchers related to the reclassification to the correct expenditure items were not provided for audit.

In the circumstances, the accuracy and regularity of the expenditure amount of Kshs.183,474,862 could not be confirmed.

678. Unsupported Payments to Contractors

Review of contract payment records revealed that the County Executive paid an amount of Kshs.75,000,000 to a contractor for management services of earth moving and road works equipment. However, the daily records of movement of the earth equipment, reports on routine supervision of road construction works, reports on routine maintenance and repairs of the earth moving equipment road and road furniture construction supplies and materials acquired and the roads constructed and maintained by the contractor were not submitted for audit therefore, it was not possible to confirm the works performed by the service provider and if they are performed as per the contract. In addition, daily approved work plans for the contractor was not submitted for the audit therefore it was not possible to ascertain the works that has been performed by the contractor since the inception of the contract.

Further, review of payment records provided revealed that the County Executive paid another contractor a total amount of Kshs.60,548,614 for repairs and maintenance of earth moving equipment. However, the payment was not supported with detailed of work performed, the post repair inspection reports by the County Chief Mechanical Engineer, the work tickets indicating the details of the dates when vehicles were in garage, maintenance logbook, driver and operators defect report, invoices, delivery notes, local purchase orders of the spare parts purchased and replaced under the contract. The payment was also not supported with inspection and acceptance committee report; therefore, it was not possible to confirm the accuracy of the expenditure. The amount was paid as a pending bill however, it was not included in the prior year audited pending accounts payables.

In the circumstances, the accuracy, completeness and regularity of the expenditure amounting to Kshs.135,548,614 could not be confirmed.

Emphasis of Matter

679. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts and actual on a comparable basis amount of Kshs.14,024,206,088 and Kshs.12,665,878,290 resulting to under-funding of Kshs.1,358,327,798 or 10% of the budget. However, the County Executive spent an amount of Kshs.12,492,701,430 against actual receipts of Kshs.12,665,878,290 resulting to an under-utilization of Kshs.173,176,860 or 2% of the actual receipts. Management has attributed the under-funding and low absorption to late disbursement of exchequer funds by The National Treasury.

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

My opinion is not modified in respect of this matter.

Other Matter

680. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not explained how the issues were addressed or resolved. Further, the financial statements have not fully disclosed the prior year audit issues and how they have been addressed by Management in Annex 1 to the financial statements on progress on follow-up prior year Auditor-General's recommendations.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

681. Unapproved Legal Fees

The statement of receipts and payments reflects use of goods and services amount of Kshs.3,939,697,705 as disclosed in Note 4 to the financial statements. The amount includes payments amounting to Kshs.364,996,746 in respect of legal fees. However, the expenditure exceeded the budgeted amount of Kshs.337,382,581 resulting to an unauthorized and unapproved expenditure of Kshs.27,614,165. This was contrary to Section 53 (8) of the Public Procurement and Asset Disposal Act, 2015 which requires the Accounting Officer not to commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

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

682. Irregular Funding of National Government Projects

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,877,268,198 which as disclosed in Note 7 to the financial statements includes construction and civil works expenses amounting to Kshs.525,642,070. Review of expenditure records revealed that there was an amount of Kshs.88,900,820 incurred on construction of a medical school, hostels and associated works at the Kenya Medical Training College (KMTC). Further, the expenditure was incurred on construction of classrooms, laboratories, dormitories and administration blocks in various primary and secondary schools paid during the year which fall under the National Government functions.

Further, included in the acquisition of assets is an amount of Kshs.676,940,884 in respect of construction of roads. The latter amount further includes a balance of Kshs.34,688,840 incurred on construction and routine maintenance of four (4) roads which fall under the Kenya Rural Roads Authority (KeRRA).

However, Management did not provide the letters of approval from the relevant ministries and there was no evidence of a written agreement or Memorandum of Understanding between the two levels of Government detailing the levels of technical, financial and capacity building support expected from National Government Agencies like Department of Public Works, as required by Article 187 of Kenyan Constitution, to guide the implementation of these projects. This was contrary to Section 45(3) of the Public Procurement and Asset Disposal Act, 2015 which requires that all procurement processes should be within the approved budget of the procuring entity and should be planned by the procuring entity concerned through an Annual Procurement Plan.

In the circumstances, the regularity of the expenditure of Kshs.123,589,660 could not be confirmed.

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

Review of the monthly payroll records revealed that two-hundred twenty-four (224) employees earned a net salary of less than one-third ($\frac{1}{3}$) of the basic salary in various months during the year under review. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee shall not exceed two-third ($\frac{2}{3}$) of such wages.

In the circumstances, Management was in breach of the law and the employees may have been exposed to pecuniary embarrassment.

684. Irregular Recruitment of Staff

During the year under review, seventy-three (73) officers in the position of clerical officer II, eight (8) enforcement officers, twenty-seven (27) trade development officers and two (2) administrative officers were recruited to the respective job appointments. However, Management did not provide evidence of any human resource plans and confirmation of whether the vacancies existed within the staff establishment and that the County Executive followed the due recruitment process. However, the County Public Service Board appointed the above employees without conducting any interviews to assess the suitability of the candidate's contrary to Article 232(1) (g) of the Constitution of Kenya.

This was contrary to Section B.5 (1) of the Human Resource Policies and Procedures Manual for the Public Service, May, 2016 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.

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

685. Irregular Secondment of Employees

Review of human resources records revealed that during the year under review, nine (9) employees were seconded to various public offices. However, the officers were seconded for periods exceeding six (6) years and Management did not provide any justification for the secondment of the officers beyond the provisions of the regulations. This was contrary Section B.33 (1) of the Human Resource Policies and Procedures Manual for the Public Service, May, 2016 which states that secondment of officers from the Public Service to other organizations is applicable to pensionable officers, for a period not exceeding three (3) years and may be renewable once.

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

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

Review of personnel records revealed that the County Executive had five thousand, four hundred and seventy-seven (5,477) employees out of whom four thousand, five hundred and fifty-seven (4,557) or 83% are from the same ethnic community in the County. Further, review of employment records revealed that during the year under review, the County Public Service Board recruited a total of two hundred and forty-nine (249) employees, out of whom two hundred and thirty-six (236) or ninety-six percent (96%) were from the same ethnic community in the County. This was contrary to Section 7 (1) and (2) of the National Cohesion and Integration Act, 2008 which stipulate that all public establishments shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community".

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

687. Non-Reservation of Procurements to Disadvantaged Groups

During the financial year 2023/2024, Management spent an amount of Kshs.6,436,315,503 on procurement of goods, works and services. Review of procurement records revealed that the disadvantaged groups of youth, women and persons with disability were awarded thirty-one (31) contracts amounting to Kshs.273,355,924 representing 4.2% of all the procurements value. This was contrary to Section 157 (10) the Public Procurement and Asset Disposal Act, 2015 which states that despite subsection (2) or any other provisions of this Act, every procuring entity shall ensure that at least thirty (30) percent of its procurement value in every financial year is allocated to the youth, women and persons with disability.

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

688. Irregular Hire of Ambulance Services

Review of expenditure records revealed that an amount of Kshs.63,264,577 was paid to a company for the provision of ambulance emergency medical services. The expenditure was incurred following a third extension of the contract entered into in February, 2018 for two (2) years without the recommendation of the evaluation committee as required by Section 139(2)(a) of the Public Procurement and Asset Disposal Act, 2015. Review of the contract extension entered in February, 2024 revealed that Management was to pay a constant monthly payment of Kshs.8,294,000 and not based on the work done making the contract skewed against the County Executive. There was also no evidence of performance monitoring of the service provider, to ensure that all delivery or performance obligations were met as required by Section 151(2) (a) of the Public Procurement and Asset Disposal Act, 2015.

Further, expenditure records revealed that the company had been cumulatively paid service fees of Kshs.610,668,577 from February, 2018. However, a cost benefit analysis between hiring and acquisition or purchase of the ambulances had not been done. This was in breach of Section 149 (2) (m) of the Public Finance Management Act, 2012 which requires proper management of the assets to ensure that value for money is received.

In addition, the procurement documents and schedules of rescue operations undertaken by the ambulances including pick-up and drop-off points and details on patients served, were not provided for audit.

In the circumstances, Management was in breach of the law and value for money for hire of the ambulance services could not be confirmed.

689. Delayed Completion of Narok County Referral Hospital Block and New Narok County Medical School

The construction of Narok County Referral Hospital Block and Narok County Medical School were funded by the County Executive at a cost of Kshs.1,107,295,449 and Kshs.407,768,961 respectively all totalling Kshs.1,515,064,410. Construction of the Narok County Referral Hospital Block was to commence in March, 2020 with the expected completion date of 09 August, 2021. Further, the construction of a New Narok County Medical School, was to commence in July, 2020 with the expected completion date of 31 December, 2021. However, the two projects have had their completion dates extended three (3) times without formal contract extension approval contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity; and any contract variations or amendments for goods, works and services shall be as prescribed.

Review of records provided for audit indicated that the contractors had been cumulatively paid an amount of Kshs.1,279,453,652 which translates to 84% of the initial contract amount without payment certificates issued by the Department of Public Works and Infrastructure. Inspection carried out in the month of October, 2024 on the

proposed construction of a New Narok County Medical School hostels and associated works revealed that the contractors were on site carrying out major structural, mechanical and electrical works. Management did not provide documents of the technical committee report, minutes of site meetings, Bills of Quantities and the amended contract price.

In the circumstances, value for money on the expenditure already incurred on the two projects could not be confirmed and Management was in breach of the law.

690. Supply and Delivery of Earth Moving Equipment and Machinery

As previously reported, the County Executive awarded a contract to a local company for supply and delivery of earth moving equipment and machinery for road construction at a cost of Kshs.1,487,932,072 which exceeded the approved budget of Kshs.876,000,000 resulting to an unauthorized expenditure of Kshs.611,932,072. This was contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015 which requires the Accounting Officer not to commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

The Department of Works through the Chief Mechanical Officer did not conduct a post-delivery inspection on the machines and earth moving equipment delivered. It is therefore not possible to confirm whether the equipment was delivered in the right status as per the contract terms. In addition, Management did not carry out inspection of the equipment delivered to ensure that they met the requisite specifications. No Inspection and Acceptance Committee Report were provided to ascertain the goods delivered, quantity and their condition. In addition, registration and ownership documents including logbooks were not provided for audit confirmation.

The delivery notes, pre-inspection reports and evidence of post-delivery inspection conducted by a mechanical engineer from Department of Roads, Public Works and Infrastructure to confirm the specifications of the machinery and equipment as per the laid down government regulations of motor vehicles and other road equipment were not provided for audit.

The daily equipment utilization schedule indicating daily odometer readings at start and end for each equipment and downtime were not provided for audit. Despite the County Executive investing in the equipment and machinery, it was observed that various road projects were outsourced to contractors without justification.

Further, there was no evidence that the machinery and equipment were received and taken on charge and recorded in the fixed assets register.

In the circumstances, value for money on the amount of Kshs.1,487,932,072 could not be confirmed.

691. Lack of Effective Citizen Participation in Planning and Budgeting

Review of the budget making process for the year under review revealed that the County Executive was not in compliance with Articles 201 and 232(1)(d) of the Constitution of Kenya, 2010 for failure to follow the guidelines in effective public participation. Management failed to develop criteria to be used in identifying the

stakeholders that would participate in the budget process and the method of communication.

Further, the following anomalies were observed:

- i. There was no evidence of communication to the public informing them about public participation and the mechanisms of the engagements before, during and after the budgeting process.
- ii. Minutes of attendance detailing the agenda, and the list of attendees by the members of the public were not provided for audit to confirm the attendance or participation by the public.
- iii. Submissions or records containing the opinion and contributions by members of the public were not provided for audit. It could therefore not be confirmed if their input was incorporated in the final documents of the budget making process.
- iv. Details of development activities to be undertaken were not given in the budget but were rather aggregated together making it incoherent and difficult to identify specific projects planned for procurement.

This was contrary to Section 125(2) of the Public Finance Management Act, 2012 which provides that the County Executive Member for finance shall ensure that there is public participation in the budget process.

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

692. Failure to Establish County Climate Change Fund

The County Executive has not established the Narok County Climate Change Fund as required by Regulation 5 of the Public Finance Management (Narok County Climate Change Fund) Regulations, 2021.

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

693. Unremitted Retirement Benefits Contributions

Review of pension documents provided for audit revealed that the County Executive owed an amount of Kshs.1,863,017,088 to three pension funds which comprise of outstanding contributions amounting to Kshs.134,981,919 and interest amount of Kshs.1,728,035,170 as detailed in the table below.

S/No.	Name	Principal Amount (Kshs)	Interest (Kshs)	Total (Kshs)
1	County Pension Fund-DC Scheme	13,336,377	84,359,542	97,695,919
2	Local Authorities Pension Trust	3,005,283	71,417,344	74,422,627
3	LAPFUND	118,640,259	1,572,258,284	1,690,898,543
	Total	134,981,919	1,728,035,170	1,863,017,089

However, Management did not make any effort to clear the outstanding amount which continues to attract interest and penalties.

Further, records supporting deduction and remittance of National Social Security Fund, National Health Insurance Fund and Pay-As-You-Earn for employees were not provided for audit.

Continued non-remittance of the retirement benefits contributions is a persistent material breach of the measures established under Public Finance Management Act. Further, the non-remittance affects the ability of pension funds to service retirement benefits, as and when such benefits fall due and the retiring employees may have been adversely affected.

This was contrary to Section 94 (a) (i) and (ii) of the Public Finance Management Act, 2012 which states that a public entity is in serious material breach or persistent material breach of the measures established under the Act if the State organ or public entity - has failed to make any payments as and when due; and has defaulted on financial obligations for financial reasons.

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

694. Irregular Payments to Council of Governors

During the year under review, the County Executive made payments amounting to Kshs.5,000,000 to the Council of Governors towards support of the 9th Annual Devolution Conference and operating expenses. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established 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.

695. Payment of Avoidable Interests

During the year under review, there were litigations against the County Executive with accumulated interest on arbitration which amounted to Kshs.752,166,295 for cases involving three clients and dating back to the 2013-2014. During the year under review, Kshs.62,288,125 had been paid. The potential payment of the total interest on arbitration amount of Kshs.752,166,295 amounts to wastage of public funds as it would have been avoided had the County Executive settled the court awards within the stipulated time frame. Further, the amount will be over and above the original total awards amount of Kshs.509,591,234 which the County Executive should have settled to avoid the payments amounting to Kshs.752,166,295.

In the circumstances, the County Executive may continue to incur additional and avoidable costs due to the non-settlement of the long outstanding court awards.

696. Irregular Transfer of Funds to Narok Kajiado Economic Block

The statement of receipts and payments reflects transfers to other Government entities amount of Kshs.401,251,066 which as disclosed in Note 5 to the financial statements includes a balance of Kshs.24,251,066 transferred to Narok Kajiado

Economic Block (NAKAEB). However, the transfers were unauthorized since they were not included in the approved budget of the County Executive for the year.

Further, the transfers were made without any conditions or agreement and no verifiable document was provided in support of the Narok Kajiado Economic Block's constitutional mandate. This was contrary to Section 104 (1) of the County Governments Act, 2012 which states that a County Government shall plan for the County and no public funds shall be appropriated outside a planning framework developed by the County Executive Committee and approved by the County Assembly.

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

697. Irregular Grants to Narok Water and Sanitation Company Limited

During the year under review, the County Executive transferred grants amounting to Kshs.10,314,123 to Narok Water and Sanitation Company Limited in respect of the Company's administration and operational costs. However, the grants were not included in the approved budget for the year and were issued to the company in cash to augment its budgetary resources. This was contrary to Regulation 71 (4) of the Public Finance Management (County Governments) Regulations, 2015 which states that a County Government entity is not allowed to give a County Government entity cash donation to augment the budgetary resources of designated departments.

Further, the transfers were made without any conditions, agreement or management instructions to guide the arrangement. This was contrary to Section 139(1) of the Public Finance Management Act, 2012 which provides that the County Assembly shall approve regulations that provide for the administration, control and management of grants, including - requirements for grant agreements binding on grant recipients that specify the terms and conditions to which the grant is subject.

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

698. Irregular Operation of Accounts in Commercial Banks

Review of cash and bank records revealed that Management operated twenty-seven (27) accounts with commercial banks instead of the Central Bank of Kenya. This was contrary to Regulation 82(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires that County Government bank accounts be opened and maintained at the Central Bank of Kenya. The only exemption is for imprest bank accounts for petty cash and revenue collection bank accounts.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

699. Payment of Salaries Through Manual System

Review of the Integrated Personnel Payroll Data (IPPD) payrolls for the year under review revealed that salaries amounting to Kshs.48,517,077 were made outside the

IPPD system through manual payrolls. The balance comprised of amounts of Kshs.34,887,575 paid to officers in various departments and an amount of Kshs.13,629,502 paid to temporary employees of the County. Manual systems are prone to errors.

In the circumstances, existence of effective controls on the payroll could not be confirmed.

700. Lack of an Audit Committee and Effective Internal Audit Function

Review of audit records provided for audit revealed that the County Internal Audit Department did not have an approved internal audit charter, approved annual audit plan and independent budget or authority to incur expenditure. Further, the Risk Assessment and Internal Audit Reports for the year under review were not provided as well as the minutes of the County Executive's Audit Committee indicating that the Internal Audit function was adequately supervised as required. In addition, the recruitment and operationalization of the Audit Committee had not been done at the time of the audit assignment. There was no evidence that the audit reports were discussed and adopted as part of Management's strategy to improve service delivery to the public or that recommendations of the external auditors were followed up by Management.

In the circumstances, Management has not put in place a proper system to monitor the County Executives governance and accountability process and control environment to offer objective advice on issues concerning risk, control, regulatory requirements and governance.

701. Lack of Updated Register of Assets for ICT Equipment

Review of assets records for the County Executive revealed that computers, printers and other ICT equipment amounting to Kshs.11,718,680 were acquired during the year under review. Further, the County Executive bought one hundred and fifty (150) hand-held android revenue collection devices worth an amount of Kshs.9,853,500, four (4) monitoring screens for performance and dashboard worth an amount of Kshs.794,000, a server worth Kshs.4,650,000, two hundred (200) software licenses worth Kshs.4,160,000 for configuration of the revenue collection.

However, the fixed and intangible assets were not incorporated into the assets register despite having been recorded in S11 and S13 issuance and receipt forms. In addition, the receipts and issues records revealed that two hundred and seventy-five (275) devices had been delivered instead of the originally tendered one hundred and fifty (150) devices.

The register of assets provided lacked the comprehensive details as prescribed in Regulation 136 (1) of the Public Finance Management (County Governments) Regulations, 2015 and therefore cast doubt on asset management by the County Executive.

In the circumstances, the effectiveness of internal controls related to assets management could not be confirmed.

702. Lack of Fraud and Risk Management Strategies

During the year under review, the County Executive did not have in place a Fraud Management Policy to assist in detecting and preventing fraud. Further, Management did not have a Risk Management Policy or strategy in place and therefore, had no approved processes and guidelines on how to mitigate operational, legal and financial risks contrary to Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015.

In addition, the County Executive lacked a Disaster Recovery Plan or Business Continuity Plan which outlines how it will continue operating during an unplanned disruption in service. Management had not instituted its own policies and procedures to guide key financial processes and controls for the management of personnel and related expenditures. Further, Management did not perform formal risk assessments during the year under review.

In the circumstances, Management may not evaluate, rank and prioritize critical risks and channel resources toward mitigating identified risks.

703. Weak Information and Communication Technology Controls

Review of the County Executive's ICT environment revealed that there was no formal approved ICT Policy. The Management did not assess the impact of an outage or disruption to the information communication technology systems and did not develop a Business Continuity or Disaster Recovery Plan. Further, Management had not established an IT Strategic Committee which should provide governance on information technology matters.

Therefore, in case of a disaster, significant delays or disruptions of activities may occur, the County Executive may not recover or restore critical infrastructure services and systems affecting all operations that rely on the Information Communication Technology.

In the circumstances, the integrity, security and reliability of the County Executive's financial data including its management information systems could not be confirmed.

704. Failure to Recover Advanced Payment from Contractor

The statement of receipts and payments reflects acquisition of assets amount of Kshs.3,877,268,198 which as disclosed in Note 7 to the financial statements includes construction of roads expenses amounting to Kshs.676,940,884. Review of payment records revealed payment to a contractor amounting to Kshs.24,500,000 in respect of advance payment for mobilization on 10 January, 2023. However, the contractor's contractual period ended and had been paid the entire contract sum of Kshs.122,698,356. However, Management had not recovered the advance payment of Kshs.24,500,000 as per the terms of the contract agreement.

In the circumstances, the recovery of the advance payment is in doubt since the contract has since expired.

705. Obsolete and Unserviceable Assets

Review of the inventory stores revealed that some items in the store are obsolete and unserviceable. Further, physical inspection revealed that the stores have several obsolete medical machinery and equipment that are of no economic importance to the County Executive.

In the circumstances, the effectiveness of internal controls related to assets management could not be confirmed.

COUNTY EXECUTIVE OF KAJIADO – NO.34

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

706. Variances Between the Compensation of Employees Amount and Payroll

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees totalling Kshs.3,783,743,196 which includes an amount of Kshs.2,244,905,799 for basic salaries of permanent employees. However, re-computation of amounts in the payroll revealed expenditure totalling Kshs.2,271,726,220 resulting in an unexplained variance of Kshs.26,820,421. Although Management indicated that a reconciliation had been done, no evidence was provided for audit.

In the circumstances, the accuracy of compensation of employees amount of Kshs.3,783,743,196 could not be confirmed.

707. Unsupported Prior Year Adjustment

The statement of cash flows reflects a prior year adjustment of Kshs.23,726,610 and as disclosed in Note 17 to the financial statements. However, the Note did not provide details to explain the error as required by the reporting template. In addition, the supporting documents were not provided for audit.

In the circumstances, the accuracy of the prior year adjustment totalling Kshs.23,726,610 could not be confirmed.

Emphasis of Matter

708. 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.10,514,620,550 and Kshs.7,915,412,157 respectively resulting in an underfunding of Kshs.2,599,208,393 or approximately 25% of the budget. However, the statement reflects actual receipts of Kshs.7,915,412,157 and expenditure of Kshs.7,835,892,231 resulting in an under-absorption of Kshs.79,519,926 of the actual receipts.

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

709. Non-Disclosure of Pending Bills

Annex 2 to the financial statements reflects Nil pending accounts payables. However, prior year disclosure under Annex 2 reflects a balance of Kshs.1,197,584,070 resulting in non-disclosure of pending accounts payables. Further, review of the report on the status of the County pending bills revealed that the County Executive had pending bills totalling Kshs.2,290,313,208 which comprise of development and recurrent

expenditure of Kshs.1,531,450,134 and Kshs.758,863,074 respectively. Management has not amended the financial statements to reflect the pending payables in the annexes.

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 the first charge.

My opinion is not modified in respect of these matters.

Other Matter

710. Unresolved Prior Year Matters

In the audit reports of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the matters remain unresolved as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

711. Unsupported Contractual Services

The County Executive through the Public Service Board contracted the services of the Institute of Human Resource Management to carry out an audit of the County employees at a cost of Kshs.5,754,700 which was paid for Phase 1 in March, 2024. However, the report from the audit exercise and the action taken by Management on the findings were not provided for audit.

In the circumstances, value for money on the expenditure totalling Kshs.5,754,700 could not be confirmed.

712. Irregular Payment of Transaction Fee and Commission

During the year under review the County Executive contracted a firm to collect revenue and was paid Kshs.7,683,308 as transaction fee for the months of September, October, November and December, 2023 in May, 2024. However, the payment was not supported by any contract agreement as the one in place only stipulates for the supply, delivery and installation of an integrated electronic revenue collection and management platform at a contract price of Kshs.29,930,320 and a recurring cost (commission) of 6% of the revenue collected. In addition, it was not clear how the monthly transaction fee was determined. Further, the firm was paid a 6% commission on revenue collected for various months totalling Kshs.33,104,959. However, the payment vouchers were supported by copies of the invoices instead of the original invoices.

In the circumstances, the regularity of the payment of transaction fee amount of Kshs.7,683,308 and 6% commission amount of Kshs.33,104,959 could not be confirmed.

713. Unexplained Voided Transactions

Review of the financial records revealed that one thousand nine hundred and twenty-two (1,922) transactions in IFMIS amounting to Kshs.2,281,278,637 were voided. However, supporting documents such as voided payment vouchers, request to void payments, The National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit. Further, the voided payments had not been disclosed as pending accounts payables and utilization of funds which were initially meant to pay the voided transactions was also not explained.

In the circumstances, the funding may have been utilized to finance transactions that were not approved by the Controller of Budget (COB).

714. Incomplete Projects

714.1 Baraka Sixers Road

A contractor was awarded a contract for grading and gravelling of Baraka Sixers Road during the year under review at a contract sum of Kshs.9,127,692. The contractor was paid all his dues. However, physical inspection revealed that the contractor dug a huge pit splitting the road into two making it impossible to access from either side. The situation of the road poses a fatal risk to the road users and the contractor was not on site.

714.2 Construction of Olkatetema Footbridge

A contract for the Construction of Olkatetema Footbridge was awarded in the prior year at a contract sum of Kshs.47,005,138. As at 30 June, 2024, the contractor had been paid a total of Kshs.23,502,569. Physical inspection of the project revealed that the project was not complete, and the contractor was not on site. In addition, poor workmanship was noted as the ramping pillar on one side of the river was evidently exposed to landslide in the event of heavy rains.

714.3 Construction of Acacia Feeder Road

The County Executive Management through the Department of Roads and Public Works entered into a contract for grading and murraming of Acacia – Feeder Road in Oloosirkon/Sholinke Ward in Kajiado East at a contract sum of Kshs.3,971,492 during the year under review. The first certificate, Certificate No.1 which was raised and presented to the department of roads on 5 June, 2024 indicated that the project was 100% complete and the contractor was paid a net amount of Kshs.3,386,724. However, review of the contract revealed that the project was to be undertaken within the period of one hundred and eighty (180) days while certificate No.1 in support of the payment indicated that the contract period was sixty (60) days. In addition, the certificate of registration of the contractors with the National Construction Authority, certificate of practical completion and inspection & acceptance committee report were not provided for audit.

Physical inspection of the project in the month of September, 2024 revealed that the road was dusty with dangerously protruding rocks stretching through the length of the road and there was no evidence of work done on the road, a position that was

confirmed by the area residents who said that the contractor only showed up to take photos of a project which they initiated and financed.

714.4 Construction of Green Valley-Parkview SDA Road

A construction company was awarded a contract for the proposed grading, gravelling & murraming of Green Valley Parkview SDA Road in Oloosirkon at a contract sum of Kshs.8,542,820. However, the following anomalies were noted:

- i. The Contractor was not registered with National Construction Authority as no registration certificate was provided for audit.
- ii. The Bill of Quantities used did not indicate the exact sections where the particular works were supposed to be carried out, the length and width of the road for the scope of work, the distance which was to be covered and the quantity and dimensions of the culverts to be installed had not been indicated.
- iii. The first culvert was blocked by waste and bushes which hindered proper drainage during rainy seasons and forced the rainwater to overflow on the road and flood. As a result, the surface of the road was soaked and swept with rainwater causing the heavy rocks beneath to pop out and making it impassable.
- iv. The second culvert was too narrow that it could not contain the force of a heavy downpour during rainy seasons causing the rainwater to sweep over the surface of the road.
- v. The third cross culvert was installed next to the dumpsite and had been attached to a twin culvert that was there before the project began. The culvert was of poor quality and broken making the section of the road impassable. The locals had tried to remedy the damage by filling up the broken sections with rocks.
- vi. Despite the Bill of Quantities having a provision for drainage works, the contractor seems to have disregarded drainage works, as the drainage was filled with litter and overgrown bushes.
- vii. Review of payments revealed that certificate number 1 amount of Kshs.3,833,500 had been paid to the contractor in October, 2020, against a contract sum of Kshs.8,542,820 as per the tender evaluation report. However, it was not clear how the remaining balance of Kshs.4,709,320 was spent.
- viii. An undated report signed by the County Engineer explained that “the supervision team recommends termination of the contract due to persistent delays in completion”. However, there was no termination letter addressed to the contractor and reasons for termination were not stated. In addition, there were no correspondences during the contract period showing communication between the contractor and the supervisory team. Further, it was not clear which contractor completed the project after termination of the previous one.

- ix. There was no completion certificate issued for this project. It is therefore not clear when the project was completed and whether the supervising engineer noted the defects in a deficiency list/snag list awaiting correction during the defect's liability period.
- x. The road from the cross culvert at Greenview to Noonkopir Trading Centre approximately 700 metres, portion of the road had been encroached and buildings had been constructed on it and it is not clear how the residents were cleared to construct on the section of the road.

714.5 Nkaimurunya Primary School

The County Executive through the department of Education entered into a contract for the construction of a perimeter fence at Nkaimurunya Primary School at a contract sum of Kshs.4,499,135 during the year under review. The contract agreement was signed on 17 May, 2024 with a contract period of sixty (60) days plus three (3) months defects liability period. Information indicates that the contractor was paid Kshs.3,619,200 on 30 June, 2024.

Physical inspection carried out in the month of September, 2024 revealed that the project had not commenced and the contractor was not on site. However, a payment certificate No.1 of 19 June, 2024 for Kshs.3,619,200 had been raised for payment indicating that the project was 81% complete. Management did not explain reasons for this anomaly.

In the circumstances, value for money on the expenditure of Kshs.73,469,685 on the incomplete projects could not be confirmed.

715. Non-Operationalization of Municipalities of Kajiado, Ngong and Kitengela

As previously reported, review of financial records indicated that the Governor granted special status to two (2) urban areas namely Kajiado and Ngong Municipalities on 6 December, 2018. However, to date financial statements, books and records of accounts for the financial years 2018/2019, 2019/2020, 2020/2021, 2021/2022, 2022/2023 and 2023/2024 have not been submitted.

Although Kitengela Municipality has a Board of Management and an Administrator, no information was provided for audit on when it was granted special municipality status and financial statements have equally not been prepared. This was contrary to Section 46(1) of the Urban Areas and Cities Act, 2011 which requires that the Board shall keep proper books and records of its incomes, expenditure, assets and liabilities, and within a period of three months after the end of each financial year the Board shall submit them to the County Executive Committee for onward transmission to the Office of the Auditor-General together with the statements of assets and liabilities.

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

716. Long Outstanding Revenue

As reported in the previous year, review of the debt ageing analysis provided for audit reflects revenue in arrears of Kshs.11,984,425,260 owed by several debtors which comprise of uncollected land rent, rates and royalties. However, Management did not

explain measures put in place to collect this outstanding revenue. Further, the County Executive Management through the Department of Finance, Planning and ICT contracted a service provider to collect revenue on its behalf. However, no evidence was provided for the progress made in recovery of the outstanding debts by the contracted service provider.

In the circumstances, a clear actionable plan for collection of arrears, the collection of land rent, rates and royalties' arrears could not be confirmed.

717. Irregular Payment of Legal Expenses

Review of legal expenses incurred during the year revealed that Kshs.79,130,505 was paid to various private law firms for legal service offered to the County Executive. However, the following anomalies were noted:

- i. The law firms were directly procured without prior approval of the Accounting Officer in writing and no proof of urgency was provided. Further, no written contracts were entered into by the parties contrary to requirements.
- ii. The legal fees charged by the external law firms did not have itemized fee notes and the justifications for the amount charged. Further, due to direct method of procurement used, the fees charged were not competitive. No minutes of an Adhoc Evaluation Committee were provided to support the reviews of charges and it was not clear how the County Attorney single handedly determined the charges.
- iii. Management incurred a avoidable expenditure of Kshs.1,468,651 being interest decreed by the court for failure by the Accounting Officer Treasury to pay an Advocates legal fee of Kshs.4,128,359. Half of the amount had been settled by the time of the audit in November, 2024, this may expose the County to further avoidable expenditures.
- iv. Management paid Kshs.10,000,000 and Kshs.30,000,000 as legal expenses on legal matters where the County Executive was neither the petitioner nor respondent but had moved to court as interested party, yet the court cases were in respect to land parcels where the owners had ownership documents.
- v. Management further paid Kshs.2,800,000 to a private legal firm to review Kajiado County Women Economic Empowerment Bill, 2020 and Kajiado County Economic Bloc Legislative Framework. It is not clear why the services were outsourced yet the staff of the County Attorney Office could handle the matter.

In the circumstances, the regularity and value for money on the amount of Kshs.79,130,505 spent on legal expenses could not be confirmed.

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

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,783,743,196 representing 41% of total revenue received of Ksh.9,140,418,504. This was contrary to Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the

County Executive expenditure on wages and benefits for public offices should not exceed thirty five percent (35%) of total County Revenue.

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

719. Non-Compliance with the Laws on Staff Ethnic and Persons Living with Disability

Review of the payroll and employee recruitment revealed that the County Executive had four thousand four hundred and sixty-four (4,464) employees. Out of whom three thousand one hundred and eighty-nine (3,189) or approximately 71% were from the dominant community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which requires that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one-third of its staff from the same ethnic community.

Further, persons living with disabilities were only twenty-six (26) representing (0.6%) out of the four thousand four hundred and sixty-four (4,464) staff of the County. This is contrary to Section 13 of Persons with Disabilities Act, 2003 states that the Council shall endeavor to secure the reservation of five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities.

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

720. Lack of an Approved Staff Establishment

As previously reported, the County Executive did not have an approved staff establishment as prescribed by Section 55(b) and (c) of the County Governments Act, 2012 that requires the County Government to ensure staff requirements are kept at optimum levels for efficient, quality and productive services for the People of the County. In the 2022/2023 audit, Management in their response to the query, had indicated that the County Executive was in the completion stage of updating its Staff Establishment. However, the Establishment is yet to be completed and approved to date.

In the circumstances, the commitment of the County Executive in regulating the ballooning wage bill remains doubtful.

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

Review of the payroll revealed that six hundred and fifty (650) employees received net salary below one-third of their basic salary contrary to Section 19(3) of the Employment Act, 2007 which requires that an employee's salary should not be deducted beyond two-thirds of their basic salary.

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

722. Payment for Undelivered Motor Vehicle

Review of the payment voucher, cash book and bank statements revealed that the County Executive made a net payment of Kshs.5,621,276 on 30 June, 2024 in respect of purchase of a motor vehicle. However, the amount was paid to the supplier prior to delivery of the motor vehicle. This was contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015. In addition, the procurement documents and the contract agreement were not provided for audit.

The regularity, ownership and value for money on the purchase of motor vehicle of Kshs.5,621,276 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

723. Expiry of the Term of Audit Committee

Review of records revealed that the Audit Committee term lapsed in June, 2023 and the County Executive had not constituted another committee as at the time of audit in November, 2024. This was contrary to Regulation 167 (1) of the Public Finance Management (County Governments) Regulation, 2015 which requires each County Government entity to establish an Audit Committee.

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

724. Lack of Information Communication Technology and Data Recovery Policies

Review of the County Information Communication Technology (ICT) environment revealed that Management did not have an approved ICT Policy in place, which includes a Data Security Policy and Disaster Recovery Plans. Further, the County Executive was operating without an up-to-date approved IT Strategic Plan.

In the circumstances, the existence of effective Information Communication Technology controls could not be confirmed.

725. Incomplete Summary of Non-Current Asset Register

Annex 6 to the financial statements on summary of non-current assets register reflects assets balance of Kshs.13,653,592,740. However, the County Executive did not provide a fixed assets register for audit. Further, as previously reported, the balance of Kshs.13,653,592,740 does not include land valued at Kshs.3,160,286,800.

In the circumstances, the security, ownership and internal controls in respect to non-current assets could not be confirmed.

726. Lack of Risk Management Policy and a Business Continuity Plan

As previously reported, review of internal control records and information provided by Management indicates that the County Executive lacks a Risk Management Policy, contrary to Section 158(1) of the Public Finance Management (County Governments)

Regulations, 2015. Further, the County Executive does not have in place a business continuity plan contrary to the provisions of Regulation 158(b)(1) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the existence of effectiveness measures to deal with risks recovery and business continuity disaster could not be confirmed.

COUNTY EXECUTIVE OF KERICHO – NO.35

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

727. Variance Between Financial Statements and IFMIS Payment Details

The statement of receipts and payments reflects total payments amounting to Kshs.6,123,097,776. However, the amount differs with the Integrated Financial Information Management System (IFMIS) total payments amounting to Kshs.6,609,895,647 resulting in an unreconciled variance of Kshs.486,797,871.

In the circumstances, the accuracy and completeness of total expenditure amounting Kshs.6,123,097,776 could not be confirmed.

728. Unsupported Foreign Travel and Subsistence

The statement of receipts and payments reflects use of goods and services amount of Kshs.775,425,914 as disclosed in Note 4 to the financial statements which includes foreign travel and subsistence amounting to Kshs.15,598,720. Included are payments amounting to Kshs.5,786,604 paid to individuals for foreign travel which were not supported by boarding passes or copies of passports and back to office reports.

In the circumstances, the accuracy and completeness of the foreign travel and subsistence expenditure amounting to Kshs.5,786,604 could not be confirmed.

729. Unsupported Payments for Insurance Services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflect use of goods and services amount of Kshs.775,425,914 which includes an amount of Kshs.89,771,448 in respect of insurance costs. The expenditure includes an amount of Kshs.40,939,739 for insurance procured via tender for County Strategic Assets. The contract was for a period of two (2) years, however, valuation reports detailing the cost of insured assets and liabilities were not provided for audit. Therefore, the basis of arriving at the insurance cost amounting to Kshs.40,939,739 and the assets involved were not provided for audit.

In the circumstances, the accuracy and completeness of the insurance cost amounting to Kshs.40,939,739 could not be confirmed.

730. Unsupported Deposits and Retentions

The statement of assets and liabilities reflects deposits and retentions balance of Kshs.76,768,907 as disclosed in Note 15 to the financial statements. However, an ageing analysis and reconciliation or break-down was not provided for audit.

In the circumstances, the accuracy and completeness of the deposits and retentions balance of Kshs.76,768,907 could not be confirmed.

731. Unsupported Domestic Travel and Subsistence Allowance

The statement of receipts and payments reflects use of goods and services amount of Kshs.775,425,914 which includes an amount of Kshs.110,094,629 in respect of domestic travel and subsistence allowances as disclosed in Note 4 to the financial statements. However, payments amounting to Kshs.53,473,070 were supported by the general ledger while bank statements reflected withdrawals amounting to Kshs.63,559,530 resulting to an unexplained and an unreconciled variance of Kshs.10,086,460.

Further, review of development bank statement and IFMIS payment details revealed payments to various members of staff amounting to Kshs.10,683,750 in respect of domestic travel and subsistence allowances. The expenditures were recurrent in nature reallocated from capital funds without authority approving reallocation of development fund to recurrent. Further, payment vouchers and other supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness of domestic travel and subsistence amounting to Kshs.20,770,210 could not be confirmed.

732. Non-Collection of Own Source Revenue

The statement of receipts and payments reflects transfer from the County Revenue Fund of Kshs.5,913,233,979 as disclosed in Note 1 to the financial statements. The amount includes Exchequer releases and own source revenue appropriated by the County Assembly to fund the County Executive. Records revealed the revenue collected by the Receiver of Revenue excluded own source revenue from inspection fees for fire compliance. An inspection fee of Kshs.3,500 was levied in the Finance Act for the period but was not being collected. Further, officer of the County Executive, however, registered and operated a mobile payment number which was not authorized by the County Treasury to collect the fees. The statements for the number indicated credit entries amounting to Kshs.152,290 and debit entries amount of Kshs.141,852 for the period from 24 January, 2024 up to 5 August, 2024. Internal investigations on the matter recommended disciplinary action on the officer. However, collection of own source revenue and transfer to the County Executive was understated by the amount not collected.

In the circumstances, the regularity, existence and completeness of cash collected through mobile payment number amounting to Kshs.152,290 could not be confirmed.

Emphasis of Matter

733. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (Recurrent and Development Combined) reflects final receipt budget and actual on comparable basis amounting to Kshs.7,604,644,288 and Kshs.6,353,006,481 respectively, resulting in under-funding of Kshs.1,251,637,807 or 16% of the budget.

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

734. Long Outstanding Pending Accounts Payables

Other important disclosures to the financial statements reflects pending accounts payables balance of Kshs.1,147,933,403 as disclosed in Note 20.1 and detailed in Annex 2 to the financial statements. Further, pending accounts payables brought forward to 2023/2024 financial year amounted to Kshs.526,208,650. However, payables totalling Kshs.196,489,526 was settled within the financial year leaving a balance of Kshs.329,719,124. However, there were additions to the payables during the year of Kshs.820,328,191 increasing the pending accounts payables to a balance of Kshs.1,147,933,403 as at 30 June, 2024.

735. Inaccuracies in Pending Accounts Payables

The financial statements reflects pending accounts payables balance of Kshs.1,147,933,403 as disclosed in Note 20.1 and as detailed in Annex 2 to the financial statements. However, the pending bill expenditures could not be verified as supporting documents were not provided for audit. Further, included in the balances are payables in respect of construction of buildings amounting to Kshs.141,592,570 which differs with payables totalling Kshs.143,706,482 as disclosed in Annex 2 of the financial statements resulting in an unexplained variance of Kshs.2,113,912.

In addition, review of the pending bills from the IFMIS payment details revealed an amount of Kshs.556,380,772 which could not be traced to the IFMIS payment details and IFMIS invoice register.

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

My opinion is not modified in respect of these matters.

Other Matter

736. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management had indicated that the issues have been resolved, the matters remain unresolved as the Senate has not deliberated and issued recommendations on them.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

737. Irregularities in Flagship Projects

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,331,707,026 as disclosed in Note 9 to the financial statements. The amount includes payments on construction and civil works amounting to Kshs.436,199,103

which includes payments on flagship projects. However, inspection of projects under the flagship programme revealed unsatisfactory implementation of the projects as detailed below;

737.1 Stalled Construction and Equipping of Theatre at Ainamoi Health Centre

Included in flagship projects was proposed construction and equipping of an operating surgical theatre at Ainamoi Sub-County Hospital. The contract sum was an amount of Kshs.14,135,859 with completion date of 4 June, 2020. The contract period was however extended to 19 August, 2022. The Project had a budget allocation amount of Kshs.12,900,000 for finalization and works were at 85% completion as at June, 2024. However, field inspection in September, 2024, revealed the Project had stalled and the contractor was not on site.

737.2 Stalled Modern Market at Sondu

Included under flagship projects was a modern market at Sondu with a budget allocation amount of Kshs.52,000,000. The contract for the construction and completion of a modern Sondu market was signed on 12 June, 2019 at a contract sum of Kshs.128,945,229. The contract was for a contract period of fifty-two (52) weeks with effect from 14 August, 2019. An extension of the contract period was granted for six (6) months and the revised completion date set for 13 December, 2024. The contractor had been paid an accumulated amount of Kshs.100,442,289 or about 78% of the contract sum for work certified as at 30 June, 2024. However, physical inspection of the project carried out in September, 2024 revealed the project was not complete despite expiry of the project duration and the contractor was not on-site.

737.3 Delay in Completion of Kapkures Water Supply Project – Strategic Intervention Project for the Financial Year 2018/2019

The County Executive entered into a contract on 30 May, 2019 for rehabilitation and construction of Kapkures Water Supply Project at a contract sum of Kshs.87,417,116. The contract period was twelve (12) months from commencement date of the contract of 5 February, 2020. Upon lapsing of the contract period, an extension was granted vide letter dated 16 February, 2022 to 17 February, 2023. However, a performance guarantee provided by the contractor and renewed to 27 December, 2023 with a commercial bank, had since expired with no further renewal as was required under clause 3.0 of the terms of the contract.

The contractor had been paid a total of Kshs.63,713,770 based on interim certificates and an amount of Kshs.23,348,579 paid to the consultant during the year for consultancy services of the works. The payments included an amount of Kshs.2,500,000 (paid via IPC 2) being variation of works. However, the variation of works was not approved by an Evaluation Committee before they were submitted through the Head of a Procurement function to the accounting officer for approval, as required under Regulation 132 (2) (b) of the Public Procurement and Asset Disposal Regulations, 2020

Progress report dated 23 September, 2024 indicated the Project was at 85% completion stage, with the pending works including fencing, construction of new gravity main from intake to treatment works and completion of pipe fittings on twin

treatment works tank. Further, no evidence was provided of requisition and approval of extension of the contract period and revised work plans for the works. In addition, the project had no signage and the contractor was not on site.

In the circumstances, the delayed completion of the project denied the public value for money on the expenditure incurred.

738. Non-Compliance with Requirements for Reallocation of Development Appropriations

IFMIS development payments details reflects an amount of Kshs.127,658,704 transferred from development to recurrent contrary to Section 154 (2) of Public Finance Management Act, 2012 that states an accounting officer shall not authorise the transfer of an amount that is appropriated for capital expenditure except to defray other capital expenditure.

Further, review of IFMIS payment details in respect of development expenditure reflects an amount of Kshs.400,935,534 or 21% of the development budget transferred to Capital Grants and used in payment of recurrent expenditures. However, no evidence that the County Executive Committee Member for Finance had tabled a bill in the County Assembly to seek reallocation of funds. This was contrary to Section 48 of the Public Finance Management (County Governments) Regulations, 2015 which states that the reallocations by the County Treasury in terms of section 154(2) of the Act shall be included in the next revised budget for the County Assembly approval.

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

739. Failure to Construct Governor and Deputy Governor's Houses

As reported in the previous year, the County Executive was required to allocate funds and prioritize construction of houses for the Governor and Deputy Governor on public land in accordance with the specifications therein, before the stated deadline. However, at the time of audit in August, 2024, the County Executive had not constructed the Governor's and Deputy Governor's houses. Further, review of the development budget for the financial years 2019/2020, 2020/2021, 2021/2022, 2022/2023 and 2023/2024 financial years revealed that there were no budgetary provisions for the construction of Governor's and the Deputy Governor's houses. This was contrary to the SRC Circular Ref. No. SRC/TS/COG/6/61/48 VOL.II (64) of 20 May, 2019 and is likely to continue incurring expenditure on house rent for the Governor and his deputy contrary to the SRC circular.

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

740. Non-Compliance with Fiscal Responsibility Principles – Wage Bill

The statement of receipts and payments reflects compensation of employees' expenditure amounting to Kshs.3,187,074,306 as disclosed in Note 3 to the financial statements. However, it was observed that the percentage of the expenditure to the County's total receipts amounting to Kshs.6,353,006,481 for the year under review was fifty percent (50%) which exceeded the set limit of thirty-five percent (35%) under

Regulation 25 (1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

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

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

Review of payroll records revealed that County Executive had three thousand, eight hundred and eighty-eight (3,888) employees out of whom three thousand, six hundred and thirty-eight (3,638) or 94% of employees were from the same or dominant ethnic community in the County surpassing the recommended threshold of one third (1/3). This was contrary to Section 7 of the National Cohesion and Integration Act, 2008 which states that all public establishment shall seek to represent the diversity of the people of Kenya in the employment of staff. No public establishment shall have more than one-third of its staff from the same ethnic community.

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

742. Non-Compliance with the Law on People with Disability

Review of payroll records revealed that the County Executive had three thousand, eight hundred and eighty-eight (3,888) employees out of which only eight (8) or 0.2% of employees were People Living with Disabilities in contravention of Section B.22 Public Service Commission HR Policies, 2016 which recommends at least five percent (5%) of the employees should be People Living with Disabilities.

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

743. Non-Adherence to the One-Third Basic Salary Rule

During the year under review two hundred and fifty-seven (257) employees received less than one-third of their basic pay contrary to the allowable limit set by Section 19(3) Employment Act, 2007. The over-commitment could potentially lead to financial strain and pecuniary embarrassment to the employees.

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

744. Irregularities in Construction of the Kericho County Aggregated Industrial Park

The County Executive awarded a tender for proposed construction of the County Aggregation and Industrial parks, at a cost of Kshs.541,000,000. The contract period was five (5) years commencing from February, 2024. The scope of works was divided into three phases namely: Main works, mechanical works and electrical works. Scrutiny. Review of the procurement documents revealed that bidder number 4 submitted a lower bid amounting to Kshs.321,328,945 and Kshs137,194,900 for the main works and Mechanical works, respectively, compared to that of the winning bidder of Kshs.377,986,363.13 and Kshs.141,334,316 resulting to a potential savings variance Kshs.60,796,834.

Further, the form of tender submitted for bidding did not include the activities or parts of the works to be subcontracted contrary to Clause ITT 34.2 of the bid document which requires that Contractor's may propose subcontracting: Maximum percentage of subcontracting permitted is: ten percent (10%) of the total contract amount. Tenderers planning to subcontract more than ten percent (10%) of total volume of work shall specify, in the Form of Tender, the activity or parts of the works to be subcontracted along with complete details of the subcontractors and their qualification and experience.

In addition, the amount awarded an amount of Kshs.541,000,000, exceeds the national framework budget of Kshs.500,000,000 allocated for similar projects across counties. However, justification for the additional Kshs.41,000,000 budgetary allocation was not provided for audit. The decision to award the contract to a higher bidder without prioritizing cost-effectiveness could not be justified.

During the year under review, the contractor was paid a total of Kshs.32,477,063 through interim payment certificate No.1 dated 15 May, 2024. Physical inspection conducted in September, 2024 revealed that the contractor was on site and works were ongoing. However, the following anomalies were noted;

- (i) The County Executive did not conduct an environmental impact assessment study contrary to Section 58(2) of the Environmental Management and Co-ordination Act, hence had not acquired the license required.
- (ii) The signboard did not display the names of the Sub-contractors contrary to item 3 of bill No.3 of the bill of quantity.
- (iii) Works amounting to Kshs.6,617,310 included in the payment certificate had not been done with others being carried out at the time of inspection resulting to either advance payment or an overpayment for the works that had not been done contrary to Regulation 98(2) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, value for money and irregularity of the payment amounting to Kshs.32,477,063 could not be confirmed.

745. Failure to Submit a List of Ongoing Projects

Management submitted the budget estimates to the County Assembly on 28 April, 2023. However, there was no evidence that Management submitted report on all ongoing projects that would receive funding in the succeeding year to County Executive Committee and County Assembly alongside the budget estimates contrary to Regulation 10(A) (g) of the Public Finance Management Act (Public Investment Management) Regulations, 2022 which requires public investment process— (g) report on all ongoing projects that do not receive funding in the succeeding year to County Executive Committee and County Assembly when submitting budget estimates.

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

746. Misclassification of Economic Items in The Approved Budget

The approved Kericho County Supplementary Appropriation Act No.2 reflects an amount of Kshs.5,753,578,119 in respect of allocations for recurrent expenditures. However, included in the allocation is an amount of Kshs.47,631,699 in relation to development expenditures. Further, included in the supplementary appropriation or allocation which is a development vote is an amount of Kshs.37,187,757 which relates to recurrent expenditures. This was contrary to Regulations 40(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires each county government's budget estimates to be prepared, accounted for and reported in accordance with the Government of Kenya budget classification and standard chart of accounts issued by The National Treasury.

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

747. Failure to Undertake Procurement through E-procurement

Review of IFMIS data revealed that development expenditure amounting to Kshs.1,121,161,848 and recurrent expenditure amount of Kshs.321,412,778 was incurred on procurement of goods, works and services outside e-procurement contrary to Executive Order No 2 of 2018 on procurement of public goods, works and services by public entities that requires all procurement be undertaken through e-procurement.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

748. Failure to Prepare Human Resource Plan

Review of the documents provided for audit revealed the County Service Board had not developed a Human Resource Plan. This was contrary to Section 59(1) (g) of the County Governments Act, 2012 that specifies that the functions of the County Service Board include facilitating the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties.

In the circumstances, the human resource needs of the County Executive may not have received adequate attention for its effective use.

749. Lack of Information and Communication Technology and Strategic Plan

Review of Information Communication Technology (ICT) controls and its environment revealed that there were no ICT Strategic Plan in place. Lack of strategic planning means that future events are not anticipated and planned for.

In the circumstances, the County Executive's preparedness from possible disaster recovery could not be confirmed.

COUNTY EXECUTIVE OF BOMET – NO.36

REPORT ON THE FINANCIAL STATEMENT

Basis for Qualified Opinion

750. Unexplained Voided Transactions

The statement of receipts and payments reflects total payments amounting to Kshs.6,496,467,460. Review of records revealed that eight hundred and forty-five (845) transactions in IFMIS amounting to Kshs.1,276,353,752 were voided. However, supporting documents including voided payment vouchers, requests to void payments, the National Treasury approval and Exchequer requisitions from the Controller of Budget were not provided for audit. Further, the voided payments were not disclosed as pending accounts payable.

In the circumstances, the regularity of voided payments amounting to Kshs.1,276,353,752 could not be confirmed.

751. Inaccuracies in Acquisition of Strategic Stocks and Commodities

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.1,273,845,260. The amount includes acquisition of strategic stocks and commodities totalling Kshs.32,000,000 as disclosed in Note 8 to the financial statements. Review of records revealed that the acquisition of strategic stocks and commodities relates to supply of milk to Early Childhood Development and Education (ECDE) Centers in the County paid for in advance. However, the amount differs with actual payments made to the supplier totalling Kshs.45,811,570 resulting in an unreconciled variance of Kshs.13,811,570.

In the circumstances, the accuracy and completeness of acquisition of assets expenditure of Kshs.32,000,000 could not be confirmed.

Emphasis of Matter

752. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.8,521,100,308 and Kshs.6,508,445,326, respectively, resulting to an under-funding of Kshs.2,012,654,982 or 24% of budget.

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

753. Failure to Settle Long Outstanding Pending Bills

Note 1 under other important disclosures to the financial statements reflects pending accounts payable totalling Kshs.1,021,785,351 as further disclosed in Annexure 2 to the financial statements. The amount includes pending bills amounting to Kshs.226,671,943 relating to 2022/2023 and earlier years which should have been

treated as a first charge in the financial year 2023/2024 budget. However, the amount had not been paid and was still outstanding as at 30 June, 2024 contrary to Regulation 41(2) of the Public Finance management (County Governments), 2015 which requires debt service payments to be a first charge on the County Revenue Fund and that the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

Further, the amount includes pending accounts payable totalling Kshs.123,910,721 which were not supported by payment vouchers and contract documents. The balance also includes an amount of Ksh.2,000,000 owed to Council of Governors in respect of operational expenses which ought to have been incurred by the National Government. Further, review of legal files revealed that the court awarded a total of Kshs.24,081,551 in favor of the plaintiffs in respect of three (3) Court cases which had not been paid. However, the amount was not disclosed as pending accounts payable.

My opinion is not modified in respect of these matters.

Other Matter

754. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

755. Procurement Irregularities in Contracts for Routine Maintenance of Roads

755.1 Routine Maintenance of Magiger-Kakelei-Cheramgoi Road

The contract for the construction of 1.9KM Magiger-Kipkelei-Cheramgoi Road was awarded at a contract sum of Kshs.3,238,865. However, review of records revealed that the contract was signed on 28 November, 2023, four (4) days after notification of award to the contractor on 24 November, 2023. This was contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 that states 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. Further, the Project was not included in the County Integration Development Plan (CIDP) and Annual Development Plan (ADP) for the financial year 2023/2024. In addition, Request for Quotation (RFQ) method of procurement was used to identify the contractors. However, the quotations from the contractors were not provided for audit review.

755.2 Construction of Kiswahili-Njerian Bridge

The contract for the construction of Kiswahili-Njerian Bridge connecting Silibwet Township and Merigi ward was awarded at a contract sum of Kshs.4,972,664. However, the contract was signed on 9 January, 2024 approximately four (4) days after the notification of the award dated 5 January, 2024 contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states 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.

Further, the project was not included in the County Integration Development Plan (CIDP) and Annual Development Plan (ADP) for the financial year 2023/2024. Physical inspection of the project on 17 September, 2024, approximately two (2) months after the contract period lapsed on 9 July, 2024 revealed that the project was incomplete with rock fill approaches from both sides of the river not completed, standard gabion boxes not compacted as per the specifications and the mesh to the sides of vertical protection cage members of the bridge had not been done. The contractor was not on site.

In addition, request for quotation (RFQ) method of procurement was used to identify the contractor. However, the quotations from the contractors were not provided for audit. The tender opening minutes, tender evaluation minutes, substantial inspection and acceptance minutes indicated that three (3) officers opened and evaluated the tenders, inspected and certified the works thereby demonstrating lack of segregation of duties in the procurement.

755.3 Construction Works at Nyatembe-Tilanik Road

Records provided indicated that the construction works of Nyatembe-Tilanik Fashion Road was entered into at a contract sum of Kshs.2,950,512. However, the project was not included in the Annual Development Plan for 2023/2024 financial year. Physical inspection of the project carried out on 19 September, 2024 revealed that only five hundred meters (500m) of the entire works of 1.9 Km had been done and the contractor was not on site. No evidence was provided to show that Management had intention to impose penalty at thirty percent (30%) of the contract price for breach of contract in line with clause 6 of the contract agreement. Further, request for quotation (RFQ) method of procurement was used. However, the quotations from the bidders, quotation opening minutes, evaluation minutes, professional opinion, notification of award and the contract were not provided for audit review.

755.4 Routine Maintenance of Mochieket Road

Records provided indicated that the maintenance and construction of 2.6Km Mocheiket road was entered into at a contract sum of Kshs.4,855,253. The contract was signed on 1 December, 2023, twelve (12) days after the notification of award on 19 November, 2023. This was contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states 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. Further, the contract had been fully paid. However,

physical inspection revealed that drainage works had not been done leading to development of gullies as a result of erosion during past rain seasons.

In the circumstances, Management was in breach of the law and value for money invested in the above projects could not be confirmed.

756. Rehabilitation of Zero-Two Steel Foot Bridge at Ndaraweta

The contract for the rehabilitation of zero-two steel footbridge at Ndaraweta-Singorwet Bridge was awarded at a contract sum of Kshs.3,826,260. However, records provided revealed that the successful bidder was notified of the award on 24 November, 2023 while the contract was signed on 28 November, 2023 approximately four (4) days after the notification of the award contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states 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 the contract is within the tender validity period. The Project was also not included in the County Integration Development Plan (CIDP) and Annual Development Plan (ADP) for the financial year 2023/2024.

In addition, tender opening minutes, tender evaluation minutes, substantial inspection and acceptance minutes indicated that three (3) officers opened and evaluated the tenders, inspected and certified the works. Consequently, there were no segregation of duties in the procurement.

In the circumstances, Management was in breach of the law and the public may not have achieved value for money from the project.

757. Chebunyo Dairy Milk Processing Plant

Records provided revealed that the County Executive entered into partnership agreement with World Vision Kenya on 10 April, 2019 for the establishment of Chebunyo Dairy Milk Processing Plant Cooperative Society at an amount of Kshs.85,540,048. The contract for construction of a milking processing plant and supply of milk processing equipment at Chebunyo was entered at a contract sum of Kshs.13,467,752 for a contract period of six (6) months and was signed on 4 June, 2019.

Another six (6) weeks contract was signed for the supply, installation, training and commissioning of milk processing plant at a contract sum of Kshs.43,520,000 that was to be paid by Chebunyo Dairy Cooperative Society through support by World Vision Kenya. However, milk processing equipment procured for Kshs.45,870,000 was delivered on 16 July, 2020 but had not been installed and the contractor was not on site. No explanation was provided for delayed installation of the equipment.

In the circumstances, value for money was not achieved from the project.

758. Acquisition of Land

758.1 Irregular Acquisition of Land

Records provided revealed that the County Executive purchased thirteen (13) parcels of land at a cost of Kshs.198,282,000 during the year under review. The amount of paid during the year totalled Kshs.122,778,000. However, the balance of

Kshs.75,504,000 in respect of deceased vendors was paid to third parties without evidence of letters of administration of the estates of the deceased being provided for audit review.

Further, title deeds for the pieces of land purchased had not been obtained and the County Executive had not taken possession of the land.

758.2 Avoidable Expenditure on Acquisition of Land

Review of land records revealed that a land seller filed legal proceedings against the County Executive for failure to pay the outstanding purchase price amounting to Kshs.575,000 being price for the purchase of three (3) parcels of land. The contract for the purchase of land was signed on 22 October, 2014. The suit charges were later dropped and the matter settled out of court and the parties made an agreement that the plaintiff be paid the unpaid amount and interest totalling Kshs.1,295,000 as penalty for the late payment on 24 January, 2024. The costs of the case totalling Kshs.253,480 were also to be paid by the County Executive. Had the purchase price been paid within the contract period of ninety (90) days, the penalties, interest and costs of the case totalling Kshs.1,548,480 would have been avoided.

In the circumstances, the value for money for the expenditure on the acquisition of land could not be confirmed.

759. Unutilised Project - Lelaitich Sweet Potatoes Co-operative Processing Plant

Records maintained at Department for Agriculture, Livestock and Cooperatives and Lelaitich Community through Lelaitich Cooperative Society indicated that it was agreed to expand and equip a sweet potato processing plant from initial cottage industry to a modern bakery plant. The Project was jointly funded by the County Government of Bomet and World Vision Kenya at Kshs.13,050,000 and Kshs.5,861,174.46, respectively. The project was handed over on 28 September, 2021. However, physical inspection of the plant on 17 September, 2024, revealed that the machines donated by World Vision Kenya had not been put to use.

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

760. Stalled Completion of Fresh Produce Pack House

The contract for the construction and completion of fresh produce pack house at Youth Farmers Trading Center at Youth Farmers Trading Centre at a cost of Kshs.13,982,798 for a period of six (6) months was awarded on 12 June, 2019 vide Local Service Order (L.S.O) No. 007381. Review of records revealed that the contractor was paid Kshs.4,041,086 on 30 March, 2020 and Kshs.3,184,384 on 25 June, 2020 all totalling Kshs.7,225,470. However, physical inspection carried out on 24 September, 2024 revealed that electricity installation and connectivity, fencing, plumbing works and plastering of walls and tiling of the floor had not been completed and the project had been abandoned as the contractor was not on site.

Further, the pack house was constructed on 1.8 acre parcel of land that was purchased. However, the title deed for the land was not provided for audit.

In the circumstances, value for money was not achieved from the project.

761. Delayed Completion of Health Facilities

761.1 Delayed Completion of Dr. Laboso Memorial, Mother and Child Wellness Centre

The Management entered into a contract on 27 April, 2022 for the construction of Dr. Laboso Memorial Mother and Child Wellness Centre at a contract sum of Kshs.296,937,205 for a period was eighteen (18) months. Records provided indicated that the contractor had been paid an amount of Kshs.286,847,449 or ninety-seven (97%) of the contract sum. The contract period expired and was extended for six (6) months up to 30 April, 2024. However, physical inspection of the project on 16 September, 2024 revealed that electricity connection, fittings, septic tank, cabro laying and levelling, painting, roof sealing, partitioning of wards, run-way and complete fencing with chain link had not been done.

Further, the contractor had not sought a further extension of the contract but was still on site without a valid contract. In addition, the project stood on three (3) parcels of land out of which two (2) parcels did not have title deeds, nine (9) years after acquisition.

761.2 Stalled Project - Completion of Sigor Theatre

Review of records revealed that the construction of Sigor Sub-County Hospital theatre at a contact price of Kshs.3,996,940 was to commence on 20 August, 2019 and was to be completed on 20 November, 2019. However, physical inspection of the project on 17 September, 2024 revealed that the Project stalled at slab level and the contractor abandoned the site after being paid an amount Kshs.2,243,910 of the contract price. Five (5) years have elapsed after the date of completion of 20 November, 2019 and no effort has made to ensure completion of the Project.

In the circumstances, value for money was not achieved from the Projects.

762. Irregular Water Works

762.1 Irregular Contracts on Construction of Water Works and Water Pans

Review of records revealed that contractors for seven (7) water works and four (4) desilting of water pans were paid a total of Kshs.15,555,845 and Kshs.13,338,030, respectively. However, the respective contract agreements were signed before lapse of fourteen (14) days from the date of notification of awards contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that 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.

762.2 Irregular Award of Contracts for Provision Pipeline Works

Review of records revealed that five (5) local contractors were paid a total of Kshs.20,094,800 for provision of pipeline works. However, the respective contracts were signed before fourteen (14) days elapsed after notification. This was contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states

that 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.

Further, one contract was signed by both parties before notification of award and one (1) contractor submitted request for quotation document on 9 October, 2023 four (4) days after the closing date of 4 October, 2023.

In addition, the members of the opening and evaluation committees were not appointed by the Accounting Officers.

762.3 Irregular Contract Variation

Review of records revealed that the contract for the construction of Mogombet T-Works to Asaik Storage Tank pipeline was awarded to a local contractor at a contract sum of Kshs.11,908,040 for a contract period of six (6) months with effect from 23 March, 2021 to September, 2021. The contractor was paid an amount of Kshs.5,250,000 in the year under review. However, physical inspection done in the Month of September, 2024 revealed that the project was not complete, three (3) years after the scheduled completion date. No efforts were made to ensure completion of the project.

Further, HDPE pipes had been laid for one (1) Kilometer length distance instead of GI pipes costing Kshs.4,692,000 in the Bills of Quantities. However, the variation was not approved while back filling in some parts of HDPE pipes was not completed.

In the circumstances, value for money may not have been achieved from the projects and Management was in breach of the law.

763. Irregular Legal Expenses

763.1 Civil Case No. 1 of 2019 in the High Court of Bomet

The County Executive was sued for wrongful termination of contract for the provision of consultancy services to develop Bomet County Spatial Plan for the year 2017-2026 at a contract sum of Kshs.34,459,907. A legal firm was contracted to represent the County at a cost of Kshs.4,500,000 which was paid in full. However, legal services were directly procured and no explanation was provided for use of direct procurement method.

Further, the procurement was not approved by the Accounting Officer, the prices were not negotiated and was not reported to the Public Procurement Regulatory Authority.

In addition, the court ruled in favour of the consultant and the County Executive was ordered to pay the a total of Kshs.12,446,040. However, the amount had not been paid as at the time of audit. This outstanding amount continues to attract interest which is avoidable if the court award had been paid. Fee notes detailing the services rendered were also not provided for audit.

763.2 ELRC Case No. E019 OF 2023 in Kericho

A former Managing Director sued Bomet Water and Sanitation Company and the County Executive on 16 October, 2023 for unlawful termination of employment. The

court ruled in favour of the former Managing Director and the County Executive was ordered to pay a total of Kshs.8,789,580 with interest of 14% from 16 October, 2023 which had not been paid as at the time of the audit in addition to paying the costs of the suit. The interest had since accrued to Kshs.1,025,451. This resulted to avoidable expenditure totalling Kshs.9,815,031.

763.3 Nakuru Court of Appeal Taxation No.20 of 2018

A law firm filed a taxation suit against the County Executive demanding taxation payment according to the Advocates Remuneration Order, 2014. The court ruled that the law firm should be paid an amount of Kshs.2,754,450 as advocate's bill of cost, taxation fee amounting to Kshs.137,723 and 14% interest effective 7 October, 2020. As at the time of audit in September, 2024, the accrued interest due to the non-payment of the dues had accumulated to Kshs.1,619,616. Had the taxation amount been paid, expenditure totalling Kshs.4,374,066 would have been avoided.

763.4 Long Outstanding Legal Cases

Review of records revealed that the County Executive had a total of thirty-four (34) long outstanding cases which includes two (2) cases on non-payment of legal fees totalling Kshs.82,000,000 which had been outstanding for over eight (8) years awaiting the ruling. The delays had resulted in an escalation of expenses.

In addition, private advocates were contracted to represent the County Executive in ten (10) cases despite having a County Attorney with legal officers.

In the circumstances, the value for money for the avoidable expenditure on legal cases could not be confirmed.

764. Irregularities in the Supply and Delivery of Heavy Road Maintenance Machinery

764.1 Procurement of Crawler Excavators, Motor Graders and Drum Roller

Review of records revealed that a company was contracted to supply and deliver five (5) crawler excavators, five (5) motor graders and one (1) drum roller with pad foot at a contract sum of Kshs.244,425,410. The equipment was delivered and payments totalling Kshs.241,425,410 made to the supplier. However, the machinery had no registration number plates on them and ownership documents for the machinery were, therefore, not provided for audit.

Further, the procurement of the equipment was not in the Annual Development Plan (ADP). In addition, the bids from the bidders were not provided for audit.

764.2 Procurement of Tippers and a Prime Mover

A contract worth Kshs.61,300,000 was awarded to a company for supply and delivery of prime mover and 5 large tippers (dump truck) out of which an amount of Kshs.22,550,000 was paid in the year under review. Review of records revealed that the equipment was acquired and delivered in the 2022/2023 financial year. However, the purchase of the heavy machinery was not included in the annual development plan for the financial year 2022/2023 when the acquisition was done.

Further, the County Executive specified the brand name of the equipment to be procured as Tata Tipper LPK 2516 contrary to the provisions of the third schedule of the Public Procurement and Asset Disposal Regulations, 2020 which requires that the description of the goods being procured should be comprehensive but not go to the level of specifications. In addition, bids for all the bidders were not provided for audit.

764.3 Purchase of Farm Implements

Review of documents revealed that an expenditure of Kshs.1,110,000 was incurred on supply and delivery of farm implements using request for quotations method. The Local Purchase Order (LPO) was issued on 6 March, 2023 and the implements were delivered on 7 June, 2023, three (3) months after issuing LPO. This was contrary to Regulation 52(1) of Public Finance Management (County Governments) Regulations, 2015 which states that a local purchase order or local service order shall be valid for a period of thirty (30) days from the date of issue.

764.4 Irregular Expenditure on Purchase of Heavy Equipment

Expenditure totalling Kshs.305,725,410 was incurred on the supply and delivery of heavy equipment against a budget of Kshs.250,000,000 resulting in an unexplained and unauthorized expenditure of Kshs.55,725,410. This was contrary to Regulation 43(2) of the Public Finance Management (County Governments) Regulations, 2015 states that County Government entities shall execute their approved budget 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, Management was in breach of the law.

765. Abandoned Construction of Governor's Residence

As reported in the previous year, the County Executive entered into a contract with a local contractor for the construction of Governors residence at a contract sum of Kshs.78,014,233. The contract period was two and a half years starting 31 January, 2019, when the contractor took possession of the project site with completion date of 30 June, 2021. The contract period was extended by six (6) months to 30 June, 2022. On 14 December, 2022 the Contractor requested for another extension of contract period from 30 December, 2022 to 30 June, 2023 but the approval of the second extension was not granted. Audit inspection of the project in September, 2023 revealed that the contractor abandoned the construction works and the project had remained incomplete for a cumulative thirty-nine (39) months after the estimated completion date of 30 June, 2021. Further, as reported in the previous year, roofing timber works erected and pitched valued at Kshs.3,452,264 but not covered by iron sheets had deteriorated and were likely to be condemned resulting in increased contract cost. As at 30 June, 2024, a total of Kshs.48,530,890 or 62% of the contract sum had been paid to the contractor with 51% of the work done.

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

766. Poor Workmanship in Construction of Kapletundo Ward Office

Records provided indicated that on 29 June, 2021 the County Executive engaged a company to construct Kapletundo Ward office in Bomet Central through contract No. CGB/ADM/003/2020/2021 at a contract sum of Kshs.10,700,000. The contract period

was eight (8) months with a completion date of 29 February, 2022 after which approvals were granted for extension which lasted up to February, 2024. Records indicated that the works were certified as complete and the contractor paid the total amount of Kshs.10,700,000 equivalent to the contract sum. However, physical inspection done in the Month of September, 2024 revealed that placement of water tank and painting of the walls and ceiling had not been done as per the Bills of Quantities.

Further, the walls had developed major cracks and it was not clear how payment certificates were issued prematurely despite the remaining works being undone.

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

767. Irregularities in Personnel Emoluments

767.1 Payment of Salaries in Shared Bank Accounts

During the year under review, the County Executive's Monthly payrolls revealed that twelve (12) officers earning a monthly gross salary of Kshs.8,642,719 were paid salary in shared bank accounts. This was contrary to Section C.I (2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which states that all officers will be paid salary on a monthly basis in Kenya currency through their respective bank accounts.

767.2 Unexplained Change in Job Groups

Review of payroll records revealed that during the year under review, five (5) employees of the County Executive moved from one job group to the next within twelve (12) Months. No evidence was provided to show that Management advertised for promotions and that the officers were invited for interview and duly promoted to the current job groups.

767.3 Irregular Payment of Special House Allowance

Review of the Integrated Payroll and Personnel Database (IPPD) indicated that during the year under review eight hundred and seventy (870) officers were paid special house allowances amounting to Kshs.33,548,493 in addition to the house allowance entitled to them which was not recommended by the Salaries and Remuneration Commission. This was contrary to Section 11 (f) of the Salaries and Remuneration Commission Act, 2011 which states that the Commission shall make recommendations on matters relating to the salary and remuneration of a particular state or public officer.

767.4 Non-Compliance with Fiscal Responsibility on Wage Bill

Review of records provided for audit revealed the County Executive spent an amount of Kshs.3,239,817,670 on wages and benefits which was fifty percent (50%) of the total receipts of Kshs.6,476,822,750. This was contrary to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the County Government's expenditure on wages and benefits for its public

officers shall not exceed thirty five percent (35%) of the County Government's total revenue.

767.5 Non-Compliance with Law on Mandatory Retirement

Review of the Integrated Payroll and Personnel Database (IPPD) revealed that forty (40) officers who had attained the mandatory retirement age of sixty (60) years were still in service. This was contrary to Regulation 70(1)(a) of the Public Service Commission Regulations, 2020 which states that the mandatory retirement age in the public sector shall be sixty (60) years. The officers were paid emoluments totalling Kshs.32,108,137 during the year under review.

767.6 Employees Earning Less than One-Third of Basic Salary

Review of payrolls revealed that two hundred and thirty-six (236) employees were receiving net salaries that were less than one-third (1/3) of their respective basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions which may be made by an employer from the wages of the employee at any one given time shall not exceed two thirds of such wages.

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

768. Non-Compliance with Fiscal Responsibility Principle on Development Budget

The statement of comparison of budget and actual amounts reflects total final receipts and expenditure budget of Kshs.8,521,100,308. The amount includes total final Development Expenditure budget amounting to Kshs.2,386,787,130 or approximately 28% of the total budget. This was contrary to Section 107(2) (b) of Public Finance Management Act, 2012 which states that, over the medium term a minimum of thirty percent of the County Government budget shall be allocated to the development expenditure.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

769. Weakness in Requisition, Receipt and Issuance of Medical Drugs

Review of records revealed that drugs worth Kshs.103,179,459 were procured from Kenya Medical Supplies Authority (KEMSA). However, the user requisitions and local purchase orders issued for procurement of drugs did not indicate the specific drugs required and the cost.

Further, inspection and acceptance reports for the drugs delivered and received, stores ledgers, Counter Receipt Vouchers (S13) and Counter Receipt and Issue Vouchers (S11) were not provided for audit.

In addition, the drugs were received at the health facilities by a Pharmacists who receives and issues the drugs leading to a lack of segregation of duties. Lack of segregation of duties increases the risk of errors and mismanagement. There was also no clear trail to confirm the dispensing of drugs by patients. The process from receiving drugs in the facility to their transfer to the pharmacy and eventual issuance to patients was not documented, impairing the ability to verify proper use and allocation.

In the circumstances, the existence of effective internal control on stocks could not be confirmed and stock loss is likely to occur due to failure to carry out quarterly stock takes.

770. Internal Control Weakness

Review of the internal audit function revealed that the Department had no approved Internal Audit and Audit Committee charters and evidence of risk management reports undertaken during the financial year under review were not provided for audit. Further, the Department had eleven (11) staff members, out of the approved establishment of thirty (30) members of staff. In addition, during the year under review, the department operated without its own approved budget posing a risk of lack of independence in internal audit operations and activities.

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

COUNTY EXECUTIVE OF KAKAMEGA – NO.37

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

771. Unreconciled Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government entities amounting to Kshs.955,057,632 and as disclosed in Note 6 to the financial statements. However, verification of the financial statements of the entities shown in the table below revealed that the amount received was different from the amount indicated as transferred by the County Executive. The variances were not explained or reconciled.

S/No.	Receiving Entity	Amount Transferred by County Executive (Kshs.)	Amount Received by the Fund/County Entity (Kshs.)	Variance (Kshs.)
1	Kakamega County Microfinance Corporation	7,500,000	7,741,126	241,126
2	Kakamega Dairy Development Corporation	66,223,194	72,223,194	6,000,000
3	Kakamega County Water and Sewerage Company (both Urban and Rural)	20,000,000	20,500,000	500,000
4	County Revenue Fund (CRF)	7,205,694	7,689,694	484,000

In the circumstances, the accuracy and completeness of transfers to other Government entities amounting to Kshs.955,057,632 could not be confirmed.

772. Unsupported Advance Payments to Contractors

The statement of receipts and payments reflects acquisition of assets amounting to Kshs.2,170,524,296 and as disclosed in Note 8 to the financial statements. The amount includes Kshs.53,759,174 advance payments to contractors in respect of procured roads and drainage works, water and sewerage works and public lighting works in two lots by the Department of Roads Public Works and Energy under the Kakamega County Kenya Informal Settlements Improvement Project. However, advance payment returns including copies of invoices, completion certificates, inspection reports and handover certificates were not submitted to the Project Manager and not provided for audit as required under clause 51.2 of the contract.

In the circumstances, the accuracy and completeness of payments amounting to Kshs.53,759,174 could not be confirmed.

773. Accuracy of Cash and Cash Equivalents

The statement of assets and liabilities reflects a balance of Kshs.331,157,093 in respect of cash and cash equivalents and as disclosed in Note 9A to the financial statements. However, the following unsatisfactory matters were observed:

773.1 Unsupported Unpresented Cheques

The bank reconciliation statements for the month of June, 2024 for operations account, development account, recurrent account reflects balances of Kshs.259,627,667, Kshs.676,917,047 and Kshs.807,287,978 respectively, in respect of unpresented cheques which were not supported by schedules indicating dates when they were eventually presented.

773.2 Receipts in Cash Book not Recorded in Bank Statements

The bank reconciliation statements for the month of June, 2024 for operations account, development account and recurrent account reflects receipts in cash book not recorded in bank statements balances of Kshs.256,593,126, Kshs.670,654,440 and Kshs.781,055,620 respectively. However, no explanation was provided for failure to bank the receipts promptly.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.331,157,093 could not be confirmed.

774. Unconfirmed Outstanding Imprests and Advances Balance

The statement of assets and liabilities reflects outstanding imprests and advances balance of Kshs.18,325,045 and as disclosed in Note 10 to the financial statements. However, Management did not maintain an updated imprest register indicating details of payees and amounts, imprest warrant number, date of issue, due date and date of surrender. Further, no explanation was provided for the failure to have the imprests recovered as at 30 June, 2024 although the balances were due for surrender by that date.

In the circumstances, the accuracy and completeness of the imprest and advances balance of Kshs.18,325,045 could not be confirmed.

775. Unsupported Deposits and Retentions

The statement of assets and liabilities reflects deposits and retentions balance of Kshs.711,017,898 and as disclosed in Note 11 to the financial statements. However, no supporting schedules with detailed analysis of individual contractors owed were provided for audit in support of the balance.

In the circumstances, the accuracy and completeness of the deposits and retentions balance of Kshs.711,017,898 could not be confirmed.

Emphasis of Matter

776. 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 totalling Kshs.15,385,606,901 and Kshs.12,572,429,645 respectively, resulting in under-funding of Kshs.2,813,177,256 or 18% of the budget. However, the County Executive spent Kshs.12,583,074,077 against actual receipts of Kshs.12,572,429,645 resulting in under-expenditure of Kshs.10,644,432 of the receipts.

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

777. Pending Accounts Payable

Note 16.1 under other important disclosures to the financial statements reflects a balance of Kshs.1,708,945,892 in respect of pending accounts payable, as further disclosed in Annex 2. The balance comprises of a balance brought forward of Kshs.1,505,298,681, additions during the year of Kshs.1,605,782,711 and payments made during the year of Kshs.1,402,184,450. However, some of the pending accounts payable relate to the period between 2015/2016 and 2022/2023 and Management did not explain why old pending bills had not been paid in accordance with Section 41 (2) of the Public Finance Management (County Governments) Regulations, 2015 which states that debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

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

My opinion is not modified in respect of these matters.

Other Matter

778. Unresolved Prior Year matters

In the audit report of the previous year, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management did not resolve the issues or give any explanation for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

779. Compensation of Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees' payments totalling to Kshs.5,624,458,149. However, the following unsatisfactory matters were noted;

779.1 Non-Compliance with Law on Ethnic Composition of Staff

Review of records maintained by Management revealed that the County Executive had six thousand, six hundred and eighty-eight (6,688) employees as at 30 June, 2024. However, it was noted that six thousand and seventy-seven (6,077) members of staff or 91% were from one dominant ethnic community in the County. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community.

Further, only 1% of the positions in the County Executive were occupied by persons living with disabilities, contrary to the County Government of Kakamega Human Resources and Procedures Manual, 2016 Part D34 (2) which states that the County Government shall ensure progressive realization of the requirement of recruitment of 5% of people with disabilities for all recruited personnel without sacrificing merit.

779.2 High Wage Bill Above Allowed Threshold

The statement of receipts and payments reflects revenue totalling Kshs.12,572,429,645 and compensation of employees' payments totalling Kshs.5,624,458,149. The compensation of employees' payments constitutes forty-five per cent (45%) of the total receipts of the County Executive for the year under review contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the payments should not exceed 35% of the County Executive total revenue.

779.3 Non-Adherence to the One-third Basic Salary Rule

Review of the Integrated Payroll and Personnel Database (IPPD) for the year under review revealed that one thousand and fifty-five (1,055) employees had net pay that was less than one-third of their respective basic salaries, contrary to the requirements of Section 19(3) of the Employment Act, 2007 which provides that the total deductions from salaries of employees shall not exceed two-thirds of their respective basic salaries.

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

780. Delayed and Stalled Projects

780.1 Long Outstanding Projects

The statement of receipts and payments reflects an amount of Kshs.2,170,524,296 in respect of acquisition of assets and as disclosed in Note 8 to the financial statements. The amount includes payments made during the year in relation to ten (10) on-going projects some dating back to the year 2014/2015 costing Kshs.7,244,942,214 at the department of Health Services. The projects were started on various dates from 2015 to 2024. A total amount of Kshs.3,149,921,423 had been paid as at 30 June, 2024. However, these projects had stalled at various stages of implementation and no reasons were given for their stalling despite their contract period having lapsed. Further, during the year under review, Management initiated projects costing

Kshs.527,298,688. No explanation was provided on why Management commenced new projects without completing the already existing incomplete and stalled projects.

780.2 Renovation Works at Mumias Slaughter House

The Department of Lands, Housing, Urban Areas and Physical Planning awarded a local contractor a contract for renovation of Mumias Slaughter House at contract sum of Kshs.19,649,884 for a contract period of six (6) months, on 3 March, 2023. However, review of the project status and physical inspection conducted on 2 September, 2024 revealed that certified works to date amounted to Kshs.7,999,928 and the slaughter house had already been put to use with unfinished toilets, unfixed doors, incomplete flooring, uninstalled fire protection services, unworked cold room, undelivered elevated steel water tank and incomplete fencing works as per the bills of quantities. No satisfactory explanation was provided for the stalling or delay in the project's completion and putting to use an incomplete structure.

In the circumstances, value for money may not have been obtained from the project.

780.3 Implementation of Road Projects

The Department of Roads, Public Works and Energy contracted a local company to upgrade two (2) roads to bitumen standards namely, Ingotse-Navakholo-chebuyus Road and Butali-Malekha Road at a contract sum of Kshs.448,491,907 and Kshs.257,868,967 respectively. However, the respective project status reports indicate that the projects were behind their completion schedules at 40% and 22% respectively, despite the County Executive having spent a total of Kshs.216,439,820 on both projects as at the time of audit in September, 2024.

The delays denied the public the services and other economic benefits due from the projects and may lead to costs increase due to inflation or other factors.

780.4 Rehabilitation of Kilimani Secondary School Water Supply

The Department of Water, Environment, Natural Resources and Climate Change entered into a contract with a local contractor on 21 March, 2022 for the rehabilitation of water supply within Likuyani Sub-County at a contract sum of Kshs.4,089,406. As at the time of audit in September, 2024, the contractor had been paid a sum of Kshs.3,057,006 or 75% of the contract sum. The rehabilitation works were to be completed within six (6) months from the contract signing date. However, physical inspection conducted on 6 September, 2024 revealed that the project was incomplete with marker posts not fixed, no signpost erected and branding of the tank had not been done as per specification in the bills of quantities.

780.5 Completion of Construction of St. Monica Mungoma Water Supply Project

The Department of Water, Environment, Natural Resources and Climate Change entered into a contract with a local contractor on 21 March, 2022 for the construction of a water supply project within Likuyani Sub-County at a contract sum of Kshs.18,906,411. As at the time of audit in September 2024, the contractor had been paid a sum of Kshs.15,935,009 or 84% of the contract sum and progress of work was at 85% complete. The construction works were to be completed within six (6) months from the contract date. However, physical inspection conducted on 6 September, 2024

revealed that the project was incomplete with marker posts not fixed, no site camp, water pipes were not connected to the newly installed water tank, no water pumps were installed and two (2) signposts were not erected. The new tank was not installed at the newly acquired land as required by the bill of quantities.

780.6 Completion of Nandamaywa Community Water Project

The Department of Water, Environment, Natural Resources and Climate Change entered into a contract with a local contractor on 17 February, 2020 for the construction of a water supply project within Shinyalu Sub-County at a contract sum of Kshs.54,213,885, with the contractor already paid a sum of Kshs.53,118,181 or 98% of the contract sum. The construction works were to be completed within one hundred and eighty (180) days from the contract date. However, physical inspection conducted on 10 September, 2024 revealed that the project was incomplete with solar pumps not yet installed, power house and staff quarter site were partly fenced and valve chamber at the main water tank was not fitted with lockable cover as specified in the bill of quantities.

780.7 Milk Processing Plant Project

The Department of Trade awarded a local contractor a contract for the proposed construction of milk processing plant in Malava Sub-County on 16 September, 2019. The original expected date of completion was 20 November, 2020 which as per the progress report No. 10, dated 19 June, 2024 was revised to 31 October, 2023 for a contract period of 202 weeks. As per the progress report No. 10 dated 19 June, 2024, the contract period had lapsed but the project was incomplete and had stalled at 76.5% with total amount paid to date amounting to Kshs.54,253,997 out of the total contract sum of Kshs.108, 091,679 or 51%.

Review of the procurement process revealed that out of the four (4) submitted bids, one (1) bidder in respect of quote number 728079 was eliminated on the basis of lack of single business permit, which upon confirmation on the Integrated Financial Management System (IFMIS) portal, the permit was attached contrary to evaluation committee's observation. Further, no evidence was provided for audit on whether due diligence on winning bidder was conducted.

780.8 Supply, Installation, Delivery and Commission of an Electronic Board Management System (e-cabinet)

The Department of ICT awarded a tender on 5 May, 2023 for the supply, installation, delivery and commissioning of an electronic board management system (e-cabinet) to a local contractor at a cost of Kshs.6,426,400. The project was to be completed within three (3) months from the date of the commencement of the contract. However, contract document provided for audit indicated that from the date of commencement of the contract, the contractor had only submitted inception report and had been paid 20% of the contract amount as at 30 June, 2023. However, as at the time of audit in September, 2024 no further progress on work done was provided, the project completion period had lapsed and the project was behind schedule by approximately (1) year and two (2) months.

In the circumstances, value for money was not obtained from the expenditure on the project.

781. Lack of Ownership Documents and Lease Agreement for Aggregation Center Land

The County Executive entered into a contract with a local seller on 5 December, 2023 for the purchase of a parcel of land in Likuyani Sub-County at a total sum of Kshs.133,500,000, out of which Kshs.5,500,000 was to be paid into a different bank account belonging to a lessee of a portion of the land for the cultivation of maize and sugarcane. However, no lease agreement between the owner of the parcel of land and the alleged lessee was provided for audit.

Further, the letter of acceptance from the land seller dated 30 October, 2023 refers to a different title and not the one indicated in the signed contract. In addition, the mode of payment under clause 5 of the sale agreement did not explicitly indicate whether the payments were to be made once or in instalments although the County Government made a payment of Kshs.33,000,000 on 23 February, 2024.

Physical inspection of the parcel of land on 6 September, 2024 showed the land was partly beaconed with unmarked signage erected at the gate. Although the construction of the aggregation center had begun and works were at substructure level, the ownership documents in favour of the County Executive were not provided for audit.

In the circumstances, value for money obtained from the purchase of land and ownership status of the parcel of land could not be confirmed.

782. Unexplained Procurement of Improved Chicks

The County Executive awarded a local vendor a tender for the supply and delivery of improved Kienyeji chicks to the central region, under the poultry subsidy program and paid the supplier Kshs.2,569,970 on 12 September, 2023. However, user needs assessment report from farmers' groups, list of prequalified suppliers, list of farmers' groups or beneficiaries, and report on training done to the groups on the improved chicken management were not provided for audit.

In the circumstances, value for money on the expenditure amounting to Kshs.2,569,970 could not be confirmed.

783. Unexplained Procurement of Fertilizers

The County Executive contracted a local vendor on 19 November, 2021 for the supply and delivery of planting and top-dressing fertilizers (120,000 bags of planting fertilizer at Kshs.2,469 per 25kg bag and 120,000 bags of top-dressing fertilizers at Kshs.1,939 per 25kg bag) at a contract sum of Kshs.528,960,000 for a contract period of 2 years and made an addendum to the same on 7 February, 2023. The contract price on the addendum was Kshs.661,080,000 (120,000 bags of planting fertilizer at Kshs.2,816 per 25kg bag and 120,000 bags of top-dressing fertilizers at Kshs.2,693 per 25kg bag), thereby occasioning increase in price of Kshs.132,120,000 or 25% of the contract price. However, no evidence was provided to show that a report on the variation was submitted to the Authority as required by Section 139(5) of the Public Procurement and Asset Disposal Act, 2015.

Further, requisition dated 4 August, 2022 on form No. 007 and another dated 5 August, 2022 approved on 11 August, 2022 for the procurement of the farm inputs for the year

2022/2023 was for 90,000kgs each for planting and top-dressing fertilizers, while the addendum to the main contract had 120,000kgs each for planting and top-dressing fertilizers. No justification was provided on the variation of the requisitioned quantities of fertilizers.

In addition, there was no evidence that user department performed necessary tests to confirm the nutrient composition of the fertilizers supplied. The fertilizers were poorly stored compromising on their quality and stores ledgers were not maintained at the ward offices hence it was not possible to confirm if the goods were taken on charge, how many bags were received, how many had been sold out to the farmers and the balances thereof.

Further, stock take had not been done and consumer price index report from the Kenya National Bureau of Statistics was not provided for audit review for validation of the price variations as required by Section 139(4)(a) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, value for money on the amount spent on the procurement of the fertilizers and the validity of procurement process could not be confirmed.

784. Lack of an Updated Fixed Assets Register

Annex 6 to the financial statements on summary of non-current assets register reflects a balance of Kshs.25,293,909,801 being the historical value of non-current assets of the County Executive as at 30 June, 2024. However, the County Executive lacked a fixed asset register prepared in the format prescribed with minimum requirements of identification or serial number, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value and identification codes with which assets were tagged as required by Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

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

785. Failure to Prepare and Submit Financial Statements of Hospitals for Audit

During the year under review, the County Executive did not prepare and submit for audit financial statements for County referral hospitals and Sub-County hospitals. This was contrary to Section 164 (1) and (4)(a) of the Public Finance Management Act, 2012 which provides that at the end of each financial year, the accounting officer for a county government entity shall prepare financial statements in respect of the entity in formats to be prescribed by the Accounting Standards Board and within three months after the end of each financial year, the accounting officer for an entity shall submit the entity's financial statements to the Auditor-General.

In the circumstances, Management was in breach of law.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

786. There were no material issues noted on the effectiveness of internal control, risk management governance.

COUNTY EXECUTIVE OF VIHIGA – NO.38

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

787. Non-Disclosure of Commission Earned from Payroll Services Rendered

The statement of receipts and payments reflects total receipts amount of Kshs.4,963,541,189. Review of payroll records revealed that service charge or commission amounting to Kshs.4,298,552 was charged for processing payroll deductions for third party institutions but the commission earned was not disclosed in the financial statements as income.

In the circumstances, the accuracy and completeness of the total receipts amount of Kshs.4,963,541,189 could not be confirmed.

788. Transactions in System Payments but not Processed in Payment Details

Analysis of the payment reports processed against the payments made revealed that five hundred and sixteen (516) transactions with a total value of Kshs.314,645,241 were paid but not captured in payment details. Although Management explained that the payment details were as a result of surrender of imprests by individual staff, direct transfer of funds to departments and donor funded projects payments where payments are made via physical cheques, the payments had not been incorporated into the financial statements .

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

789. Inaccuracies in Transfer to Other Government Agencies

The statement of receipts and payments reflects an amount of Kshs.328,795,971 relating to other grants and payments as disclosed in Note 5 to the financial statements. Analysis of payment details in IFMIS indicated that, an amount of Kshs.308,760,541 transferred to other entities, differs with the ledger amount of Kshs.370,958,471 resulting into an unreconciled difference of Kshs.62,197,930.

In the circumstances, the completeness and accuracy of other grants and payments amounting to Kshs.328,795,971 could not be confirmed.

790. Long Accounts Receivables Outstanding Imprests

The statement of assets and liabilities reflects accounts receivables – outstanding imprests balance of Kshs.16,638,638 as disclosed in Note 9 to the financial statements which includes transfers due from County Assembly amount of Kshs.14,000,000. Review of records revealed that the County Executive transferred an amount of Kshs.6,000,000 and Kshs.38,000,000 to the County Assembly on 25 February, 2021 and 23 November, 2021, respectively totalling Kshs.44,000,000 being funds paid from deposit and retention account to County Assembly's Car Loan and Mortgage Account.

However, only an amount of Kshs.30,000,000 had been refunded as at 30 June, 2024 leaving a balance of Kshs.14,000,000.

Further, salary advances balance of Kshs.1,950,338, includes a balance of Kshs.1,775,438 advanced in the year 2015 and 2017 to ten (10) members among whom four (4) are former staff of the County Executive, one (1) a current member of staff, one (1) former but deceased member of staff, three (3) are current sitting Members of County Assembly (MCAs) while one (1) is a former MCA. No much effort had been made to recover the amounts which was still outstanding with no movement during the year under review.

In the circumstances, the regularity, accuracy and recoverability of the accounts receivables balance of Kshs.16,638,638 could not be confirmed.

Emphasis of Matter

791. Budgetary Control and Performance

The summary statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual on comparable basis amount of Kshs.5,965,773,487 and Kshs.4,963,541,189 respectively resulting to an underfunding amount of Kshs.1,002,232,298 or 17% of the budget. However, the County Executive spent an amount of Kshs.4,797,492,560 against the actual receipts of Kshs.4,963,541,189 resulting to an under-utilization of Kshs.166,048,629 or 3.4% of the actual receipts

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

792. Late Exchequer Releases

The statement of receipts and payments and as disclosed in Note 1 to the financial statements, includes total Exchequer releases amount of Kshs.4,963,541,189 out of which an amount of Kshs.2,000,446,283 or approximately 40% of the total Exchequer release amount of Kshs.4,963,541,189 was received in the last quarter. The County Government may not be able to meet its financial obligations in rendering the services to the public.

793. Pending Bills

Annex 2 to the financial statements reflects pending bills balance of Kshs.1,509,939,483 an increase of Kshs.43,415,589 from the prior year balance of Kshs.1,466,523,894. Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions to the subsequent year as they form a first charge.

My opinion is not modified in respect of these matters.

Other Matter

794. Unresolved Prior year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

795. Irregularities in the Construction of Modern Funeral Home

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects acquisition of assets amount of Kshs.863,689,851. Included in the expenditure is an amount of Kshs.194,286,976 on the construction of buildings which further includes an amount of Kshs.9,646,688 towards construction of a modern funeral home at the Vihiga County Referral Hospital.

Review of the project records revealed that the contract was signed on 20 February, 2021 at a contract price of Kshs.96,593,784 for a contract duration of one (1) year from receipt of the commencement order on part of the contractor. On 25 July, 2022, the contractor sought an extension of the project completion time which was granted on 30 August, 2022. The extension granted was for the period from 1 September, 2022 to 30 April, 2024. As at the time of audit, the contractor had been paid cumulative amount of Kshs.94,294,478 or 98% of the total contract sum.

The following unsatisfactory matters were however, noted from review of the project file and physical inspection of the Project.

- (i) The Project was yet to be handed over as at the time of audit, despite five months having lapsed from the revised completion date. Further, unsatisfactory issues noted by the Project Implementation Committee were yet to be addressed by the contractor.
- (ii) The roofing materials specified in the bills of quantities was “Decra stone coated steel tiles (916m²) at a cost of Kshs.3,750 per square metre totalling Kshs.3,412,100. However, physical verification revealed that the contractor used orientile roofing sheets of gauge 28 not specified in the bill of quantities.
- (iii) The bill of quantities specification for the ceiling was to be acoustic comprising of Armstrong "minaboard at a total cost of Kshs.1,530,000. However, physical verification revealed that gypsum ceiling was used instead; and
- (iv) The bills of quantities specification for WCs was Duravit D-Code WC suites and the hand wash basins were to be fitted but a different brand, ‘Sawa’ ceramic were used.

In the circumstances, value for money from the cumulative expenditure amounting to Kshs.94,294,478 could not be confirmed.

796. Delays in Completion of the Governor's and Deputy Governor's Residences

Review of documents revealed that Management paid out an amount of Kshs.42,974,171 towards the construction of the Governor's and the Deputy Governor's residences during the year under review. As noted in the previous audits, review of the project files revealed that despite the contractor having committed to complete the outstanding works by 27 March, 2024, the works remained incomplete as at the time of audit in November, 2024. Water or electricity were not connected to the residences and access roads had not been done. Further, review of the latest payment certificate No. 8 revealed that the contractor had been paid cumulative amount of Kshs.142,094,694 out of contract sum of Kshs.148,526,625.

In the circumstances, value for money on the expenditure amounting to Kshs.142,094,694 incurred on the project could not be confirmed.

797. Irregular Procurement of Motor Vehicle Insurance

Review of records revealed that the County Executive paid an amount of Kshs.30,642,507 on insurance expenses. Contract between the County Executive and an insurance company was signed on 23 June, 2023 for provision of motor vehicle insurance at a contract price of Kshs.37,203,333 for three (3) years payable in three (3) annual instalments amount of Kshs.12,401,112. However, the following unsatisfactory matters were noted:

- i. Security document amounting to Kshs.280,000 for the successful bidder was not attached to the tender document;
- ii. Management had not fully paid the annual instalment amount of Kshs.12,401,112. Only an amount of Kshs.6,146,800 had been paid as at the time of the audit. This is indicative that in the event of an accident the insurer might fail to honour their obligation for non-payment;
- iii. Clause 4 of the contract agreement states that, "The procuring entity hereby covenants to pay the tenderer in consideration of the provisions of the services and the remedying of defects therein, the contract price or such other sum as may become payable under the provisions of the contract at the times when funds are available from the date of execution or provision of the services and in the manner prescribed by the contract." This implies, that the insurer will be paid subject to availability of funds, which seems unfair on the insurer's side, but also implies that in case of peril, the County Executive may not be compensated as expected. This was contrary to Section 147 of the Public Procurement and Asset Disposal Act, 2015, which obligates both parties in a procurement contract to adhere strictly to the terms and conditions agreed upon, including the payment schedule.

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

798. Stalled Construction of Eco-Toilet

Review of the project file revealed that a contract was signed on 1 May, 2023 (labor-day), between the County Executive and a construction company for the construction of an eco-toilet at Cheptulu market at a contract price of Kshs.3,262,337. The contract period was to run for one month, from 1 May to 1 June, 2023. On 6 September, 2023, the contractor was paid an amount Kshs.1,975,526 for works that had been certified through certificate No. 1 dated 20 June, 2023. Physical verification on 13 September, 2024, revealed that the project stalled and the contractor was not on site. No explanations were given on the stalled project, and there were no efforts being made by the County Executive to remedy the situation.

This was contrary to Section 153(1)(b) of Public Finance Management Act, 2012 which requires the accounting officer to manage its assets in such a way as to ensure that the county government entity achieves value for money in acquiring, using or disposing of those assets.

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

799. Irregularities in the Proposed Construction and Completion of Hospital Plaza

As previously reported, the County Executive entered into a contract with a building contractor towards the construction of a six storey one hundred and sixty (160) bed capacity plaza at the Vihiga County Referral Hospital on 14 October, 2015 for a contract sum of Kshs.250,000,000. The contract period was twenty-four (24) months with an expected completion date of 18 October, 2017 which was later extended by twelve (12) months to 16 October, 2018 on request by the contractor. Examination of records provided revealed that the contract period had elapsed and the contract was terminated on 16 April, 2020.

As at November, 2022 the contractor had been paid a total amount of Kshs.187,287,023 while the Project had stalled when the building was approximately 78% complete.

Thereafter, Management invited a tender for the completion of the Hospital and a new contract was entered into with another company at a new contract sum of Kshs.395,172,567, which was more than the original contract by an amount of Kshs.145,172,567.

Review of records available as at time of audit in November, 2024 revealed the following anomalies:

- i. Despite the contract completion period having elapsed in June, 2024, it was noted that the contractor still had several outstanding works during audit inspection on 16 September, 2024. At the time of audit inspection, no work was on-going due to delayed payment to the contractor.
- ii. Based on County Executive Inspection team's site meeting minutes dated 31 January, 2023, it was noted that some additional works were adopted after an

integrity test had been done on the building and were to act as remedial measures resulting into variation in costs.

- iii. At the end of the financial year 2022-2023, it was noted that the contractor had been paid approximately a total amount of Kshs.56,647,231 as reported in payment certificate No. 3 out of the contract sum of Kshs.395,172,568 leaving a balance of Kshs.338,525,337. In the year under review, it was noted that an amount of Kshs.98,886,040 was budgeted towards the project. Meaning that it would have not been possible for the contractor to have delivered the project within the projected timeline.

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

800. Irregularities in Procurement of Non-Perishable Foodstuffs

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services amount of Kshs.788,304,840 out of which an amount of Kshs.108,718,626 relates to purchase of specialized materials and supplies. Included in the expenditure is supply of non-perishable foodstuffs which was awarded to a company at a cost of Kshs.2,033,107. Review of the documents revealed that the Tender Evaluation Committee, professional opinion, notification of award, and notification of unsuccessful bids were all completed on the same day, 13 July, 2023. Further, the Local Purchase Order (LPO) was issued on 17 July, 2023, about four (4) days later. This issuance was in violation of procurement laws, which require a 14-day period to elapse after the notification of award, allowing unsuccessful bidders time to file complaints and have any disputes resolved before proceeding.

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

801. Irregularities in Own Generated Revenue Automation

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects acquisition of assets amount of Kshs.863,689,851 out of which an amount of Kshs.36,447,420 was incurred in the purchase of specialized plant, equipment and machinery. However, the following unsatisfactory matters were noted;

801.1 Lack of Cost-Benefit Analysis of the Revenue Automation System

Included in the purchase of specialized plant, property and equipment is supply, delivery, installation, customization, and commissioning of a Revenue Collection and Management System, which was contracted at a cost of Kshs.58,777,600. Of this expenditure, an amount of Kshs.41,928,000 equivalent to 71% of the contract sum had been paid out to the vendor. The payment was made up of payment made during the year totalling Kshs.22,428,000 and previous year payment amount of Kshs.19,500,000. However, although the whole revenue system has not been automated, the incremental revenue amounted to Kshs.8,618,829. Further, Management continues to pay 3% as service fee to the vendor and it might take several years for the County Executive to recover the initial cost of investing in the System.

801.2 Pending Works by Vendor on Revenue Automation System

The audit revealed that 71% of the contract sum of Kshs.58,777,600 had been paid to the vendor for the Revenue Automation System. However, the following issues were noted:

- i. The revenue system is still under the control of the vendor and has not yet been handed over to the County Executive. The System was yet to be completed.
- ii. The revenue system has not been integrated with the County Executive's existing systems.
- iii. High Cost - An annual maintenance fee of 3% of the revenue collected through the system is payable to the vendor. However, this fee is considered high, as it includes all revenue collected by the County Executive and does not consider that the County Executive was collecting revenue before automation. The County Executive should have considered negotiating with the vendor to deduct the original revenue collected before the automation to arrive at the incremental revenue attributable to automation.
- iv. The revenue data is hosted by the vendor.
- v. Lack of backup and recovery procedures.

801.3 Lack of Optimal Utilization Point of Sale Machines

Included in the amount is payment to a company amounting to Kshs.22,428,000 which further includes an expenditure of Kshs.22,428,000. However, the expenditure includes an amount of Kshs.6,750,000 for the supply of one hundred and fifty (150) Point of Sale (POS) machines out of which one hundred and six (106) were distributed across five Sub-counties and were in good working condition while forty-four (44) machines were not in use for various reasons.

The underutilization of machines and the lack of action to repair faulty devices may lead to revenue collection inefficiencies, potential loss of County Executive's assets and possible financial mismanagement.

In the circumstances, value for money spent on the revenue system could not be confirmed.

802. Accumulated Pending Bills Relating to Legal Costs

Review of legal cases in the County Executive revealed the following unsatisfactory matters:

- (i) The list of pending bills reflected an opening balance of Kshs.260,318,488 at the beginning of the year, additions of Kshs.1,740,000 during the year, legal fees settlements made during the year totalling Kshs.31,430,437 and closing balance of Kshs.230,628,051. Review of records revealed that the actual amounts demanded by external lawyers who represented the County Executive in various court cases was an amount of Kshs.71,450,943. Out of the balances, the County Executive has contested claim amounting to Kshs.58,000,000 by one of the firms which

represented the County Executive in seven (7) cases but which the Office of the Court Attorney has taken. The County Executive is negotiating with the advocate to scale down the amounts failing of which they shall seek the intervention of Court to tax the Bills. The claims relate to advocates engaged before the Office of the County Attorney was operationalized in the year 2020.

- (ii) Out of the pending bills balance of Kshs.260,318,488, an amount of Kshs.188,867,539 represents decree sums arising out of judgments entered against the County Executive inclusive of costs and interest. Of this, is an amount of Kshs.106,000,000 which the Employment and Labour Relations Court in Kakamega decreed be paid as salary arrears to the health workers employed in the year 2019. The Office of the County Attorney was pursuing appeal against the judgment and decree at the Court of Appeal.
- (iii) During the year, thirteen (13) new court cases were filed against the County Executive relating to the following issues; Un-procedural termination of contract, contractors claiming money for goods supplied but not paid for, and land encroachment by the County Executive. Management agreed that decisions by County Executive has largely contributed to increased litigations against the County Executive, delay in disbursement of funds by The National Treasury leading to delayed settlement of pending Bills had contributed to some of the contractors resorting to court process.

In the circumstances, value for money for the legal expenses balance of Kshs.230,628,051 could not be confirmed.

803. Non-Compliance to Climate Change Regulations

Review of compliance with the law on climate change as stipulated in Article 69(f) of the Constitution on obligation in respect of the environment and Climate Change Amendment Act, 2023 among others revealed that the County Executive had not fully implemented the laws, regulations and policies on climate change as detailed below:

- (i) Some departments did not adhere to the requirements of Environmental Impact Assessments (EIA) for the projects undertaken.
- (ii) Management did not report on the Greenhouse Gas Emissions.
- (iii) It was noted that resources are appropriately allocated for climate change initiatives, whereby two per cent (2%) of the County development budget was allocated to climate change through the County Climate Change Fund and this amounted to Kshs.80 million in the financial year 2023/2024. The County also accessed further climate financing from the Financing Locally Led Climate Action Program. The County Executive accessed an amount of Kshs.11,000,000 for three (3) years running from 2021/2022 for capacity building and an amount of Kshs.162,700,000 in 2023/2024. However, delayed disbursement of the allocated funds from the County Executive and the FLLoCA program hampers timely realization of intended benefits of the allocated climate finances.

(iv) Further, the departments in the County Executive were aligning their operations with the Long-Term Low Emissions Development Strategy (LT-LEDS) 2022-2050 through:

- (a) Adoption of the renewable energy(solar) in water supply .
- (b) Adoption of climate smart agriculture practices
- (c) Adoption of solar- street lighting.

However, low levels of awareness and budgetary constraints have hampered the alignment to Low Emissions Development Strategy.

(v) Stakeholders are engaged through various committees and forums, but were no documentation on their contributions.

In the circumstances, the County Executive did not fully comply with climate regulations, law and policies.

804. Irregular Payment to Council of Governors

The statement of receipts and payments reflects use of goods and services amount of Kshs.783,304,840 and as disclosed in Note 3 to the financial statements which includes other operating expenses amounting to Kshs.132,845,191. However, Management incurred an amount of Kshs.3,000,000 to the Council of Governors. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

805. Non-Compliance with the Persons Living with Disabilities Act, 2013

Review of the payroll records revealed that only twenty-three (23) employees out of three thousand two hundred thirty-two (3,232) were categorized as persons with disabilities. This constituted 1% of the total employees which was below the recommended level of 5% under Section 13 of the Persons with Disabilities Act, 2013 which provides that the Council shall endeavor to secure the reservation of five percent (5%) of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities.

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

806. Non-Compliance with Law on Fiscal Responsibility on Wage Bill

The statement of receipts and payments reflects compensation of employees totalling Kshs.2,382,693,382 representing 48% of the County Executive's total revenue receipt of Kshs.4,963,541,189. This was contrary to Regulation 25(1)(a) and (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 thirty-five (35%) of the total County revenue.

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

807. Non-Achievement of Annual Development Plan and Budget Targets

Analysis of the Annual Development Plan revealed that the County Executive had proposed new projects valued at Kshs.1,323,000,000. However, projects valued at Kshs.749,049,758 were prioritised due to resource constraint with projects valued at Kshs.356,605,652 being completed and paid for during the year. Projects valued at Kshs.392,444,106 were however completed but not paid for without an explanation.

In the circumstances, the County Executive was behind schedule in its implementation of the Annual Development Plan which may impact negatively on service delivery to the public.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

808. Weak Controls over IFMIS Payments Module

Review of the Integrated Financial Management Information System (IFMIS) payment details report indicated that nine hundred and fifty-six (956) transactions with total value of Kshs.1,823,193,355 were paid in cash as per item description. However, verification of the individual transactions on a sample basis revealed that the amounts were charged to the appropriate vote despite the anomaly in the payment descriptions. Management attributed the weaknesses to the system which makes the transactions susceptible to manipulation.

In the circumstances, the risk of misrepresentation of transactions by giving inappropriate description could not be overruled.

809. Weaknesses in Management of Drugs and Medical Supplies

The statement of receipts and payments reflects use of goods and services amounting to Kshs.788,304,840 out of which an amount of Kshs.108,718,626 relates to purchase of specialized material and supplies as disclosed in Note 3 to the financial statements. Included in the amount is medical supplies and drugs by Kenya Medical Supplies Authority during the year, totalling Kshs.72,857,500. The following internal controls weakness were noted:-

809.1 Stores Management

There were weaknesses in the management of drugs in hospital stores as evidenced by the audit of Vihiga County Level 4 Referral Hospital. KEMSA records revealed that the Hospital received supplies of drugs worth Kshs.19,092,261 during the year. The Hospital uses an Information Management System called CHIS to manage pharmacy records, including the receipt and dispatch of drugs. However, no annual reports generated from the CHIS system were provided to verify the supplies received from KEMSA during the year.

809.2 Expired Medical Drugs

Inspection of stores records revealed expired medical drugs. However, records were maintained manually without indicating the costs, making it impossible to determine

the value of the expired drugs during the year. Attempts to retrieve this information from the CHIS system were unsuccessful.

In the circumstances, the inefficiencies in the management of pharmaceutical and non-pharmaceutical drugs may result in mismanagement of medical supplies, which could lead to a loss of public funds.

810. Dormant Bank Account

The statement of assets and liabilities and as disclosed in Note 8 to the financial statement reflects cash and cash equivalents balance of Kshs.452,796,023. Review of the bank reconciliation statements, revealed that the County Executive had nine (9) bank accounts that were dormant and had no operations for more than one year. Management did not give a justification of operating the dormant bank account.

In the circumstances, the existence of controls in management of accounts could not be confirmed.

811. Delay in Implementing Information Technology Internal Controls System

The County Executive had not finalized formulation of an Information Technology (IT) Continuity and Disaster Recovery Plans (DRP). Management explained that the IT and Disaster Recovery Plans were still in draft form being reviewed by the Legal Department. Without the recovery plan, the County Executive is exposed to risk of business disruptions.

In the circumstances, in the absence of the DRP, the County Executive stand a risk of loss of data and business disruptions.

812. Lack of Fully Operational Audit Committee

The Audit Committee appointment and approval was done on 11 April, 2023. The Committee held meetings twice during the year on 18 January, 2024 and 16 May, 2024. This was contrary to Regulation 179(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Audit Committee shall meet at least once in every three (3) months. Further, the Audit Committee minutes provided for audit were not signed by the chairperson and the secretary. The internal audit charter was not approved.

In the circumstances, the effectiveness of the oversight role from the Audit Committee could not be confirmed.

COUNTY EXECUTIVE OF BUNGOMA – NO.39

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

813. Unreconciled Variance on Compensation of Employees

The statement of receipts and payments reflects compensation of employees payments amounting to Kshs.4,859,170,763 as disclosed in Note 3 to the financial statements. However, the supporting payrolls data revealed expenditure amounting to Kshs.5,452,051,258 resulting to an unreconciled and an unexplained variance of Kshs.592,880,495.

In the circumstances, the accuracy and completeness of compensation of employees amounting to Kshs.4,859,170,763 could not be confirmed.

814. Unreconciled Variances on Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government entities amounting to Kshs.647,969,990 and as disclosed in Note 5 to the financial statements. However, comparison of the amounts reported in the financial statements of the entities shown in the table below revealed that the amount received was different from the amount indicated as transferred by the County Executive. The variances were not explained or reconciled;

No.	Details	Amount Transferred by County Executive (Kshs)	Amount Received by Entity - (Kshs)	Variance Amount (Kshs)
1	Kimilili Municipality	20,754,740	60,402,326	(39,647,586)
2	Bungoma Municipality	-	80,665,133	(80,665,133)
3	Bungoma County Climate Change Fund	411,612,194	422,612,194	(11,000,000)
4	Scholarships and Other Educational Benefits	195,000,000	165,000,000	30,000,000

In the circumstances, the accuracy and completeness of transfers to other Government entities amounting to Kshs.647,969,990 could not be confirmed.

815. Unaccounted for Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.681,048,669 and as disclosed in Note 6 to the financial statements. However, the supporting documents for the payments were not provided for audit.

In the circumstances, the accuracy and completeness of other grants and transfers amounting to Kshs.681,048,669 could not be confirmed.

816. Unsupported Outstanding Imprests and Advances

The statement of assets and liabilities and as disclosed in Note 11 to the financial statements reflects outstanding imprests and advances balance of Kshs.21,594,790. The imprests include long outstanding imprests dating as far back as 2016 which had no supporting documentation. The Management did not provide reasons for non-accounting for imprests in accordance with Regulation 93(5) of the 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 (7) working days after returning to duty station.

In the circumstances, the accuracy, completeness and recoverability of the outstanding imprests balance of Kshs.21,594,790 could not be confirmed.

817. Unsupported Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustments balance of Kshs.1,555,811 and as disclosed in Note 14 to the financial statements, which in turn comprises of an increase in bank accounts balance by Kshs.11,304,631 and decrease of outstanding imprests and advances balance of Kshs.9,748,820. However, the schedules supporting the transactions, journal entries, cash books, banks statements, certificates of bank balances and bank reconciliation statements for the adjustments were not provided for audit.

In the circumstances, the accuracy and completeness of prior year adjustments balance of Kshs.1,555,811 could not be confirmed.

Emphasis of Matter

818. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects receipts budget and actual on comparable basis amounting to Kshs.12,948,647,400 and Kshs.10,773,422,692 respectively, resulting in under-funding of Kshs.2,175,224,708 or 17% of the budget. However, the County Executive spent Kshs.10,451,325,600 against an approved budget of Kshs.12,948,647,400 resulting in under-utilization of Kshs.2,497,321,800 or 24% of the actual receipts.

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

819. Pending Accounts Payable

819.1 Increase in Pending Accounts Payable

Note 17.1 under other important disclosures and as disclosed in Annex 2 to the financial statements reflects pending accounts payable totalling Kshs.3,339,153,758. However, the pending accounts payable increased by an amount of Kshs.2,094,647,077 or 168% from a balance of Kshs.1,244,506,681 reported in the previous year's financial statements. In addition, the dates Invoiced or contracted, original amounts or contract sum and balance at the beginning of the financial year

were not stated for several outstanding pending bills. Further, the Controller of Budget indicated in County Government Budget Implementation Review Report for the financial year 2023/2024 that the County Executive had a high level of pending bills, which amounted to Kshs.3,506,516,486 as of 30 June, 2024 since the County Treasury did not adhere to the payment plan for the pending bills.

819.2 Unreconciled Electricity Pending Bills

Included in Annex 2 to the financial statements are pending electricity bills balance of Kshs.10,335,677 owed to Kenya Power and Lighting Company. However, third party confirmation by Kenya Power and Lighting Company revealed that the County Executive had accumulated debts amounting to Kshs.22,530,940 resulting in an unreconciled variance of Kshs.12,195,263.

819.3 Unreconciled Lapfund Pending Bills

Included in Annex 2 to the financial statements are Local Authorities Provident Fund (LAPFUND) pension deductions balance of Kshs.566,828,951 in relation to principal and accrued interests. However, third party confirmation revealed that the County Executive owed Lapfund a total balance of Kshs.31,354,376 as at 30 June, 2024 resulting in an unreconciled variance of Kshs.535,474,575.

My opinion is not modified in respect of these matters.

Other Matter

820. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2024. Management had not provided satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

821. Irregularities in Human Resource Management Practices

821.1 Non-Adherence to One-third Basic Salary Rule

Review of the Integrated Payroll and Personnel Database (IPPD) as at 30 June, 2024 revealed that an average of eight hundred and eighty-six (886) employees were earning net salaries that were less than one-third of their basic salaries per month during the year under review. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that total deductions from salaries of employees shall not exceed two-thirds of the respective basic salaries.

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

821.2 Lack of Ethnic Diversity in Staff Recruitments

The County Executive recruited three hundred and twenty-eight (328) new employees. However, out of this number, two hundred and sixty-five (265) employees or 81% were

from the dominant ethnic community in the County. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, the County Public Service Board shall consider that at least thirty (30) percent of the vacant posts are not from the dominant ethnic community in the County.

821.3 Excessive Wage Bill

The statement of receipts and payments reflects total expenditure amounting to Kshs.4,859,170,763 in respect of compensation of employees which represents 47% of the total receipts for the year amounting to Kshs.10,375,865,875, contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the total expenditure on the wage bill for County Governments should not exceed thirty-five (35) percent of the County Government's total revenue.

821.4 Engagement of Temporary Workers

Review of the casuals' payroll revealed that six hundred and seventy (670) casual staff were engaged for more than three (3) continuous months without conversion of casual employment to term contract. This was contrary to Section 37(1)(a) and (b) of Employment Act, 2007 which requires that where a casual employee works for a number of working days amounting in the aggregate to the equivalent of three months or more, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly.

Further, employment of casual employees was done at Departmental level without a written authority by the County Public Service Board contrary to Section 74 of the County Governments Act, 2012, which provides that the County Public service Board shall regulate engagement of persons on contract, volunteer and casual workers. In addition, there was no policy document to guide on the selection criteria, terms of engagement, and remuneration of casuals. Similarly, the employment files for casuals engaged during the year were not provided for audit review.

821.5 Employees on Long-Term Probation

Verification of the payroll data for the month of June, 2024 revealed that six hundred and seventy-two (672) employees were serving on probation periods of up to sixteen (16) years. Management did not explain the reasons for failing to confirm the employees to permanent and pensionable terms in accordance with Section 42(2) of the Employment Act, 2007 which provides that a probationary period shall not be more than six months but it may be extended for a further period of not more than six months with the agreement of the employee.

821.6 Lack of an Approved Staff Establishment

Review of June, 2024 payrolls revealed that the County Executive paid six thousand, three hundred and eighty-three (6,383) employees through the Integrated Payroll and Personnel Database (IPPD) payroll. Out of this number, one hundred and ninety-nine (199) staff were promoted while three hundred and twenty-eight (328) were recruited during the year. However, the County Executive did not have an approved staff

establishment and therefore the optimal staffing levels for all cadre of staff had not been established in accordance with Section 5(f) of the County Governments Act, 2012 which provides that a county government shall be responsible for establishing and staffing its public service as contemplated under Article 235 of the Constitution. Further, Management did not explain or specify the mechanisms it relied upon to identify existence of vacancies that were filled.

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

822. Irregularities in Procurement and Award of Contracts

Verification of several project files of the County Executive revealed that key information was lacking in the contracts which includes the contract dates, commencement dates, current status, expected completion dates and revised completion dates. Further, Management did not provide monthly progress reports of all the procurement contracts. The project implementation team also failed to provide the updated records relating to each contract in accordance with Regulation 140 (1) of the Public Procurement and Asset Disposal Regulations, 2020 which provides that the head of procurement function shall prepare a monthly progress report of all procurement contracts and submit the same to the accounting officer in accordance with Section 152 of the Act and Regulation 140(2) which provides that the report referred to in paragraph (1) shall include— (a) contract description; (b) contract number; (c) value of contract; (d) commencement date; (e) current status; (f) the amount of money paid; and (g) the expected completion date.

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

823. Failure to Sell Fertilizers at Subsidized Price

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects other grants and transfers amount of Kshs.681,048,669 which includes payments amounting to Kshs.181,247,340 paid to local suppliers for purchase of fertilizers for sale to farmers at subsidized prices of Kshs.3,500 per bag in accordance with the Bungoma County Finance Act, 2023. However, the fertilizers were issued free of charge to farmers and not sold as planned thus causing loss of budgeted revenue to the County Executive.

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

824. Irregularities in Construction of Ward Administrator Offices

A local contractor was paid an amount of Kshs.1,834,683 on 5 March, 2024 for proposed erection and completion of ward administrators offices at Misikhu and Bokoli wards which were started in the financial year 2014/2015 at a contract sum of Kshs.17,921,926.

During the year under review, an interim certificate No.5 showed a revised contract sum of Kshs.21,362,240 and works done at 85% complete. However, the procurement file, contract documents, extension of the contract duration documents and the current status of the project were not provided for audit.

In the circumstances, value for money may not have been realised in respect of the variation and implementation of the project.

825. Delays in Construction of a Metallic Stand at Mbakalo Stadium

The statement of receipts and payments reflects acquisition of assets amount of Kshs.2,083,889,103 as disclosed in Note 8 to the financial statements which includes overhaul and refurbishment of construction and civil works balance of Kshs.404,364,569 which further includes a payment of Kshs.2,500,000 to a local contractor, in respect of construction of a metallic stand at Mbakalo Stadium. The contractor was awarded a contract sum of Kshs.6,588,881 on 6 April, 2023 with an end date of 24 August, 2023, however, the project was late by ten (10) months as at 30 June, 2024.

Further, the percentage of work done could not be determined since the project manager had not carried out an evaluation of work done and had not issued a monthly progress report.

In addition, an audit inspection conducted in September, 2024 revealed that the works were incomplete as per the bills of quantities, sections of the walling were falling off, and rust had accumulated on welded steel roofing structures, support bars and flooring. Further, the application of bituminous paint and installation of rain water goods (gutters) were not done and the contractor was not on site.

In the circumstances, value for money may not have been realized in respect of the implementation of the project.

826. Irregularities in Completion of Masinde Muliro Stadium

The County Executive contracted a local company for construction of Phase 1 of Masinde Muliro Stadium at Kanduyi at a contract sum of Kshs.679,386,379 for a twenty-four (24) months contract period from 14 June, 2019 with an end date of 31 January, 2021. During the year under review, the scope of works was expanded to include construction of office block, arena stand, perimeter wall, renovation of football pitch, external works and civil works, mechanical and electrical works amounting to Kshs.128,078,424 which lead to a revised contract sum of Kshs.807,464,803 and an end date of 15 June, 2024 as approved by the contract implementation team. However, the contract period was extended without renewal of liability insurance cover and performance security bond.

Further, as at 30 June, 2024, the works were approximately 90% complete and contractor had been paid an amount of Kshs.746,164,872 which is approximately 92% of the contract sum. However, the schedule of remaining works from project manager was not provided for audit.

An audit inspection conducted in September, 2024, revealed that the works had stalled and the contractor had abandoned site. Further, the title deed for the land on which the stadium is built was not provided for audit.

In the circumstances, the public may not realize value for money spent on the project.

827. Irregularities in the Construction of Kanduyi-Sang'alo Junction to Dual Carriage

The statement of receipts and payments reflects acquisition of assets and Note 8 to the financial statements amount of Kshs.2,083,889,103 which includes payments totalling Kshs.102,500,000 made for construction of 6.7 Kilometers Kanduyi- Sang'alo Junction Road (C33) to dual carriage way. The contractor had received payments amounting to Kshs.1,341,481,891 as at 30 June, 2024 following award of contract and addendum for construction of the road on 27 December, 2018 at a contract sum of Kshs.1,573,728,108 ending on 21 July, 2022.

Review of the project's Resident Engineer status report dated 14 November, 2023 indicated that the road was 98% complete. However, verification of the project established that bituminous mix bases - a 50mm asphalt concrete wearing course, concrete works, a foot bridge costing Kshs.50,000,000, road furnitures, and round posts street lights amount of Kshs.24,286,000 had not been done. Further, the round pole street lights were not installed as the National Government installed in their place concrete poles streetlights during Madaraka day celebrations.

An inspection done in September, 2024 revealed that 1.7 metres wide shoulders were not marked or identified for use by pedestrians on both sides and poor drainage observed in middle sections of the road which retained flood water. Further, the road was being used by motorists and pedestrians and the contractor was not on site thereby posing a great danger.

In the circumstances, value for money may not have been realized by the public in respect of the project.

828. Irregularities in the Construction of Misikhu – Naitiri – Brigadier Road

The County Executive contracted a construction company for upgrading of 39 kilometers Misikhu-Naitiri-Brigadier Road to Bitumen standards on 21 November, 2016 at a contract sum of Kshs.1,115,939,198 with a completion date of 17 June, 2024.

During the year under review, the contractor was paid a total amount of Kshs.169,002,876 which resulted in a total payments amounting to Kshs.928,007,956 or 83% of the contract sum. However, status report dated 31 March, 2024 indicates the overall works were at 76% and that the contractor was overpaid by an amount of Kshs.91,053,557 which was attributed to interests on late payments.

After the award and commencement of the project, 19 Kilometres section of Misikhu to Naitiri road was taken over by the National Government leaving 20 Kilometres from Naitiri to Brigadier Road under the County Executive. As a result, the County Executive re-advertised and awarded a contract to completion of 20 Kilometres Naitiri to Brigadier Road to the same contractor at a contract sum of Kshs.525,999,390 on 8 April, 2024. However, the County Executive has not provided any documentary evidence demonstrating how the former contract was closed and transfer of two (2) 4WD 2800cc motor vehicles estimated at Kshs.16,500,000 which were to revert back to the County Executive at the close of the project. In addition, there did not appear

indications that ten (10) publicity sign boards costing Kshs.750,000 were erected as provided in the contract.

Further, the audit inspection done in October, 2024 revealed that the roadworks had stalled and contractor was not on site and the construction of National Government Road had not started.

In the circumstances, value for money may not have been realized by the public in respect of the project.

829. Failure to Transfer Functions to Kimilili and Bungoma Municipalities

The statement of receipts and payments and Note 4 to the financial statements reflects use of goods and services amount of Kshs.2,083,889,103 which includes other operating payments amounting to Kshs.628,461,613, which in turn comprises payments for garbage collections totalling Kshs.320,560,000. However, garbage collection is a function of Bungoma and Kimilili Municipalities as required by Urban Areas and Cities Act, 2011 (Amended in 2019) and charters for the two municipalities. Further, as reflected in the financial statements of Kimilili and Bungoma Municipalities, the County Executive procured and made payments totalling Kshs.39,647,586 and Kshs.79,470,574 respectively on their behalf. No explanation was provided for the failure by County Executive Management to give the two Municipalities operational autonomy.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

830. Lack of a Risk Management Policy

The County Executive had not developed a Risk Management Policy and there was no indication that risk assessments were conducted in the financial year under review.

In the circumstances, the effectiveness of management in evaluating risk arising from fraud could not be confirmed.

831. Lack of an ICT Policy

Review of ICT internal controls revealed that Management had prepared a draft ICT policy but it had not been approved for operation. As a result, Disaster Management and Recovery Policy, business and ICT Continuity Plan, ICT Strategy Committee and ICT Steering Committee had not been formulated.

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

832. Failure to Provide Project Implementation Status Report

The County Executive did not provide for audit the project implementation status report as at 30 June, 2024. Therefore, it was not possible to ascertain the number of projects

approved for implementation, how many were completed, in progress, not started and stalled.

In the circumstances, the effectiveness of projects' implementation management could not be confirmed.

833. Weakness in the Internal Audit Function

833.1 Lack of Performance Appraisal of the Internal Audit Function

The Audit Committee did not carry out annual review of the independence, performance and competency of the Internal Audit Unit and comment on their effectiveness in the annual report. Further, the internal audit unit did not go through a professional assessment on its effectiveness done by a professional body or recognized institution which should be done once every three (3) years but not more than five (5) years. This was contrary to Regulation 159(1)(2) and (3) of the Public Finance Management (County Governments) Regulations, 2015.

833.2 Failure to Act on Internal Audit Reports

The Internal Audit Unit conducted audit assignments and reported on their findings. However, there was no evidence that the issues raised were acted upon by the Management in accordance with Regulation 165(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires that the Accounting Officer of the concerned entity shall be responsible for the implementation of the recommendations made in the audit reports and shall develop responses and action plan which they shall submit to the chairperson of the Audit Committee within fourteen days.

In the circumstances, the effectiveness of Internal Audit Unit could not be confirmed. and Management was in breach of the law.

COUNTY EXECUTIVE OF BUSIA – NO.40

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

834. Unsupported Expenditure on Daily Subsistence Allowance

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,131,630,395 as disclosed in Note 4 to the financial statements, which includes an amount of Kshs.176,137,889 for domestic travel and subsistence. During the year under review, the County Executive issued imprest to members of staff for travel activities. However, the amount of Kshs.176,137,889 includes payments of Kshs.16,525,845 that was not supported with invitation letters to attend meetings or conferences, attendance lists to ascertain the meetings or conferences indeed occurred and evidence of travel such as work tickets or boarding passes.

In the circumstances, the accuracy and completeness of domestic travel and subsistence amounting to Kshs.16,525,845 could not be confirmed.

835. Unsupported Expenditure on Foreign Travel

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,131,630,395 as disclosed in Note 4 to the financial statements, which includes Kshs.38,111,767 for foreign travel and subsistence. However, out of the sampled payments amounting Kshs.18,496,248, a local Tours and Travel firm was paid an amount of Kshs.14,200,000 which represent over 80% of the contracts for provision of air travel agency services. There was no explanation on how the firm emerged the winning bidder and the procurement documents were not provided for audit. Further, requisitions provided for audit did not indicate clear instructions of dates of travel, number of persons travelling as well as the destinations. In addition, relevant supporting documents including invitation letters, approval for travel, boarding passes, training programs and attendance registers were not provided for audit verification.

In the circumstances, the accuracy, completeness and regularity of foreign travel and subsistence expenditure amounting to Kshs.18,496,248 could not be confirmed.

836. Unsupported Expenditure on Hospitality, Supplies and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,131,630,395 as disclosed in Note 4 to the financial statements, which includes an amount of Kshs.146,159,529 on hospitality supplies and services. However, the amount includes payments totalling Kshs.8,335,849 whose supporting attendance lists were not matching with the local service orders (LSOs), and tender opening and evaluation minutes, work plans and activity budgets were not provided for audit.

In the circumstances, the regularity, accuracy and completeness of expenditure on hospitality supplies and services amounting to Kshs.8,335,849 could not be confirmed.

837. Unexplained Variances on Other Grants and Transfers and Transfers to Other Government Entities

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.954,202,673 as disclosed in Note 6 to the financial statements. Further, the statement reflects transfers to other Government entities amounting to Kshs.5,737,937 as disclosed in Note 5 to the financial statements. However, variances were noted between the amounts reported in the County Executive's financial statements as transfers or grants and amounts reflected in the respective Funds' financial statements as transfers from County Executive as detailed below:

Name of the Fund	Amount as Per the Fund Financial Statements (Kshs)	Amount as Per the County Executive Financial Statements (Kshs)	Variance (Kshs)
Busia County Agricultural Development Fund	5,000,000	5,061,350	(61,350)
Busia County Cooperative Enterprise Development Fund	8,000,000	5,500,000	2,500,000
Busia County Education Support Scheme	117,500,000	125,000,000	(7,500,000)
Busia County Emergency Fund	35,800,000	10,007,000	25,793,000

The above variances have not been explained or reconciled.

In the circumstances, the accuracy and completeness of other grants and transfers and transfers to other Government entities amounting to Kshs.954,202,673 and Kshs.5,737,937, respectively could not be confirmed.

838. Misclassified Expenditure - Other Grants and Transfers

The statement of receipts and payments and Note 6 to the financial statements reflect other grants and transfers amounting to Kshs.954,202,673. However, included in the amount are payments amounting to Kshs.30,971,078 made to suppliers or individuals but charged to other grants and transfers. This was contrary to Section 138(1)(c) of the Public Finance Management Act, 2012 which states that "grant recipient" means the County Government or a County Government entity authorized to control or spend money under this Act or an incorporated or unincorporated body not otherwise authorized to control or spend money under this Act.

In the circumstances, the regularity, accuracy and completeness of payments amounting to Kshs.30,971,078 could not be confirmed.

839. Lack of Ownership Documents and Number Plates for Tractors

The County Executive through the Department of Transport, Roads and Public Works purchased seven (7) Mahindra tractors at total cost of Kshs.24,500,000. Physical verification conducted in September, 2024 revealed that, the tractors did not have

number plates and ownership documents were not provided for two tractors. Further, it was not possible to confirm whether the tractors were updated in the asset register as the register was not provided for audit.

In the circumstances, the accuracy, completeness, existence and ownership status of the tractors worth Kshs.24,500,000 could not be confirmed.

840. Unreconciled Pending Accounts Payable

Note 17.1 to the financial statements on other important disclosures reflects pending accounts payable balance of Kshs.1,838,870,345. However, the Controller of Budget (CoB) budget review implementation report for 2023/2024 financial year reflects pending accounts payable balance of Kshs.1,420,592,427 resulting in an unexplained and an unreconciled variance of Kshs.418,277,918. Further, Note 17.1 to the financial statements reflects pending accounts payable balance brought forward balance of Kshs.1,838,870,345, while previous year's audited financial statements for the year ended 30 June, 2023 reflects a balance carried forward of Kshs.1,941,629,827, resulting in an unexplained variance of Kshs.102,759,482.

Further, records held by Kenya Power and Lighting Company Limited and Local Authorities Provident Fund (LAPFUND) indicate that the County Executive owes the two entities an amount of Kshs.7,008,295 and Kshs.132,908,245, respectively. However, the balances have not been disclosed as pending bills in the County Executive's financial statements. In addition, the bills have been pending for a long time, some dating back to the financial year 2018/2019.

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.

In the circumstances, the accuracy, existence and completeness of pending accounts payable balance of Kshs.1,838,870,345 could not be confirmed.

841. Voided Transactions

During the year under review, payments totalling Kshs.2,155,388,788 relating to development and recurrent expenditure were voided as at 30 June, 2024. The highest voided transactions were in the month of June, 2024 amounting Kshs.772,602,862 or 36%. No explanation was provided on why the payments were voided after being approved by the Controller of Budget.

Further, no evidence was provided to confirm that the Controller of Budget was informed of the voiding of the payments so as to make necessary adjustments contrary to Section 92(3)(c) of the Public Finance Management Act, 2012 which states that if a State Organ or other public entity encounters a serious financial problem or anticipates serious challenges in performing its financial function or meeting its financial commitments, it shall immediately notify the Controller of Budget and the Commission on Revenue Allocation.

In the circumstances, the regularity of voided transactions amounting to Kshs.2,155,388,788 could not be confirmed.

Emphasis of Matter

842. 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 totalling Kshs.9,221,975,801 and Kshs.7,997,291,623 respectively, resulting in under-funding of Kshs.1,224,684,178 or 13% of the budget. However, the County Executive spent Kshs.7,692,246,047 against an actual receipts of Kshs.7,997,291,623 resulting in under-utilization of Kshs.305,045,576 of the actual receipts.

Further, analysis of the Integrated Financial Management Information System (IFMIS) payment detail revealed that payment transactions amounting to Kshs.7,976,289 were paid but the specific line items had not been budgeted for in the respective Appropriation Account.

The under-funding affected the planned activities and may have impacted negatively on service delivery to the public and fiscal budget discipline could not be confirmed.

My opinion is not modified in respect of these matters.

Other Matter

843. 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 the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

844. Project Implementation Status Report

Records provided for audit indicated that seven (7) departments had planned to implement four hundred and forty-two (442) projects at total contract sum of Kshs.1,582,225,471, during the year under review, out of which only two hundred and sixty-one (261) projects were completed, one hundred and sixty-nine (169) were on going as at the time of audit in September 2024, thirteen (13) projects had not started while three (3) projects worth Kshs.25,829,592 for Mauko Child Protection Centre, Mortuary at Nambale Sub-county and maternity wing at Nasira dispensary had all stalled and the contractors were not on site.

Further, the project implementation status report provided for audit did not indicate the start date, the end date and the duration of the projects.

In the circumstances, public did not get the expected value for money from the incomplete, non-started and stalled projects.

845. Delay in Implementation of Projects

845.1 Incomplete Administration Block at Onyunyur Vocational Training Centre

The County Executive awarded a tender to a local firm for construction of an administration block at Onyunyur Vocational Training College at a contract sum of Kshs.4,997,500 for a period of three (3) months (12 weeks) commencing 24 May, 2021. Request for extension of project completion date was done vide a letter dated 10 December, 2021 and was not granted until 10 February, 2022. Site verification of the project in September, 2024 revealed that the project was incomplete.

The contractor had been paid an amount of Kshs.1,705,225 as per certificate number 01 of 1 February, 2022.

845.2 Delay in Completion of the Construction of County Aggregation and Industrial Park

The County Executive through the Department of Trade, Cooperatives, Investment and Industries awarded a tender for the construction of county aggregation and industrial park to a local firm at a cost of Kshs.448,960,875. This project was to be co-funded by the County Executive and the National Government through the Ministry of Trade and Industrialization equally.

The contract period was twenty-eight (28) weeks with a commencement date of 8 July, 2023 and the anticipated completion date of 27 February, 2024. Extension of the contract period was granted twice on 10 March, 2024 for eighteen (18) weeks and on 26 August, 2024 for one hundred and fifty (150) days. Site visit conducted in 13 September, 2024 revealed that, the project was 30% complete and affirmed by the clerks of works and the site engineer. Minutes of the site meeting held on 1 August, 2024 also indicated that the project was 30% complete.

Further, the boundary wall did not cover the entire length of the fence of the Industrial Park. There was a discrepancy between the bill of quantities (BoQ) and the wall drawings. The BoQ provided for 473 meters, while the drawings and actual measurement on the ground was 673 meters. The wall only covered the front side and was 473 meters in length as physically inspected in September, 2024 and confirmed by the site engineer. Therefore, there was a shortfall of 200 meters and the cost assigned to the wall had been fully exhausted in the BoQ's costing. The sub-structure of the 473 meters of the boundary wall had been done.

In addition, septic tank and drainage system was not done and the following units were incomplete; aggregation warehouse and cold storages, value addition warehouse, ablution block, office block, power house, pump house and electrical installation works.

Similarly, ownership documents of the land upon which the Industrial Park is built and the memorandum of understanding (MoU) with the Ministry of Trade and Industrialization (MITI) were not provided for audit.

845.3 Incomplete Construction of Musirira Box Culvert

The County Executive entered into a contract with a local Company for the proposed construction and completion of Musirira Box Culvert at a contract sum of Kshs.3,980,702. The contractor had been paid a total sum of Kshs.3,541,982 as at 30 June, 2024. The project start date was 1 March, 2024 and the contract period was sixteen (16) weeks. The anticipated completion date was 1 July, 2024. However,

physical verification conducted in September, 2024 revealed that the project was incomplete as backfilling of the culvert, gabion works and gravelling and site clearance of vegetation had not been done. Further, the road leading to the box culvert was in bad condition. In addition, no extension of the contract period has been sought by the contractor.

846. Stalled Projects

846.1 Construction of Maternity and Placenta Pit

The contract for proposed completion of maternity and placenta pit was awarded on 22 June, 2023 at a contract sum of Kshs.9,903,990 with completion period of four (4) months to a local firm. During the period under review, the contractor was paid Kshs.2,932,865.

However, physical verification in the month of September, 2024 revealed that the existing dispensary was not functional and the maternity was built where there were no supporting amenities including water and road network. The works had not been completed, the contractor was not on site and there was no signage to indicate the period in which the project was undertaken. The Management failed to carry out monitoring and evaluation of the project.

846.2 Incomplete Disaster Management Center

The County Executive awarded a contract for construction of disaster management center at Samia Subcounty at a contract sum of Kshs.9,780,348 to a local firm. The contract period was four (4) months, with commencement date being 3 May, 2024 and ending on 3 September, 2024. Physical verification of the works in the month of September, 2024, revealed that the contractor had abandoned the site. Further, the construction of the center was incomplete, the building construction was only at the ground level with no walling structures.

In addition, there were no clear objectives of setting up the disaster management center in the annual policy and development plan of the County Executive, there was no signage to indicate the year which the project was undertaken and the County Executive failed to prepare monitoring and evaluation report to fast track the implementation process.

Similarly, review of payment records revealed that an amount of Kshs.4,979,080 or 51% of the contract sum had been paid to the contractor.

846.3 Disaster Management Center at Busia Town – Phase II

The County Executive awarded a contract for construction of disaster management center at Busia County headquarters at a contract sum of Kshs.6,550,000, to a local firm. The contract period was for twelve (12) weeks, with commencement date of 18 April, 2021 and anticipated completion date of 19 June, 2021.

Physical verification of the works in the month of September, 2024 however, revealed that the contractor had abandoned the site, while the construction of the center was incomplete. Further, it was observed that the first phase of the project was complete and the ground floor was housing the Department of Public Works casting doubts on whether the purpose of disaster center was to accommodate offices. In addition, there was no signage to indicate the year the project was undertaken and the County

Executive failed to prepare monitoring and evaluation report to fast track the implementation process.

Similarly, review of payment records revealed that an amount of Kshs.5,552,970 or 85% of the contract sum had been paid to the contractor.

846.4 Stalled Construction - Trailer Park

Review of records revealed that a contract agreement dated 7 June, 2021 was signed between the County Executive and a local firm at a contract sum of Kshs.6,890,400, for construction of a trailer park at Mundika, Bukhaya West ward, Phase 1.

The contract period was to take four (4) months from the date of handing over of the site, which was 16 July, 2021. The project completion date was expected to be 21 October, 2021. A total of Kshs.3,593,040, representing 52% of the contract sum had been paid as at the time of audit in October, 2024. Further, the contract period had long lapsed and there was no evidence of extension of contract period.

Physical verification of the project in October, 2024 revealed that the contractor had abandoned the site and no works were ongoing. The contractor had only carried out trench excavation all-round the trailer park, constructed columns and stone walling of three lines laid half way the park. No explanation was provided on why the works had been abandoned.

In the circumstances, the public may not obtain value for money on the resources already spent on the above stalled projects and the objectives of the projects may not be achieved.

847. Unsupported Construction of Designated Parking Areas

The County Executive through its County Itemized Development Budget for financial year 2022/2023 through the Department of Lands, Housing and Urban Development, under the programme on urban management and development budgeted an amount of Kshs.100,000,000 for construction of designated parking areas within Busia Municipality. Information available indicate that the main works was to involve the laying of cabros.

Physical verification in October, 2024, revealed that works of similar nature were ongoing in Busia Agricultural Training College (ATC) frontage. However, supporting documents including procurement and payment records for the works done were not provided for audit. Further, no supporting documents were provided for audit in respect to the proposed construction of designated parking areas.

In the circumstances, value for money on the utilization of the budget amounting to Kshs.100,000,000 could not be confirmed.

848. Incomplete Renovation of Busia Stadium

Review of procurement documents from the Department of Sports, Culture and Social Services for the period ending 30 June, 2024 revealed that a local firm was contracted on 19 July, 2023 for the renovation of Busia stadium at a contract sum of Kshs.4,989,800. The works involved repair of the perimeter wall, gates and replanting of football court irrigation system.

As per the site handing over minutes of 10 August, 2023, the commencement date of the project was 14 August, 2023, the contract duration was eight (8) weeks and anticipated completion date was 16 October, 2023. Further, the site handing over minutes were not signed by the public works officer on site. In addition, the project file provided for audit lacked key documents including signed procurement requisition, appointment letters to tender opening committee, appointment letters to tender evaluation committee, tender award acceptance letter by winning bidder, inspection and acceptance committee minutes, copies of the winning bidder CR12, Pin certificate, Tax compliance certificate, Business permit and the post-qualification due diligence report of the winning bidder.

Review of minutes of a meeting of mutual termination of contract dated 17 April, 2024 between the contractor and the Management indicated that there was local residents' interference to carry out the works, vandalism of stores, equipment, work items, rowdiness of the locals and accrual of bank interest that made the works unattainable. Valuation report dated 12 June, 2024 indicated that the value of works done amounted to Kshs.2,043,150, but no payment details were provided for audit.

Physical verification of the project in October, 2024 revealed that the project was incomplete, the perimeter wall had collapsed, and no gates repair and replanting of football court irrigation system had been done.

In the circumstances, value for money in respect to the expenditure incurred on the project could not be confirmed.

849. Unsupported Re-organization of Busia Town

During the financial year 2022/2023 an amount of Kshs.40,000,000 was reallocated to the Department of Lands and Housing under the Urban Development Vote in the September 2022 supplementary budget. Records available indicated that the reallocation was meant for re-organization of Busia Town, including removal of displayed goods and chattels along the road and establishment of modern stall among other strategies. However, the procurement and expenditure documents on how this budget was expended were not provided for audit.

In the circumstances, value for money in the utilization of the budget amount in respect to re-organization of Busia Town could not be confirmed.

850. Abandoned Project - Modern Filleting Room

Information available indicates that the County Executive contracted a local firm for construction and equipping of a modern filleting room at Bunyala Fishermen Cooperative Society. Physical verification of the facility in October, 2024 revealed that the facility had been abandoned, was not in use and was in a dilapidated condition. Further, no supporting documents were provided for audit in respect to this project.

In the circumstances, value for money in respect to the project could not be confirmed.

851. Excess Budgetary Allocation to the County Assembly

Review of the County Executive's final approved supplementary budget revealed that during the year under review an amount of Kshs.981,057,352 was allocated to the County Assembly of Busia. The allocation to the County Assembly was equivalent to 9.6% of the total County Executive revenue budget for the year

amounting to Kshs.10,203,033,156 which was Kshs.9,221,975,801 and Kshs.981,057,352 for the Executive and Assembly respectively contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the approved expenditures of a County Assembly shall not exceed seven per cent (7%) of the total revenues of the County Government.

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

852. Unsurrendered Outstanding Imprest and Advances

The statement of assets and liabilities and as disclosed in Note 11 to the financial statements reflects outstanding imprests and advances balance of Kshs.1,343,500. Review of the imprest register revealed that imprests were issued as from February 2024, but had not been surrendered as at 30 June, 2024. No explanation was provided for failure to surrender or account for the imprest in accordance with Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

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

853. Unfavourable Contract Agreement Terms

The County Executive awarded a tender to a company for supply, delivery, installation, customization and commissioning of an Integrated Revenue Collection and Management System and a Hospital Information Management System at a contract sum of Kshs.59,885,232. However, included in the contract agreement and terms of reference are the following clauses which are detrimental to the County Executive;

- i) Clause 32.1 (b) states that, unless otherwise specified in the special conditions of contract, the procuring entity shall use its best efforts to assist the consultant with promptly obtaining, for the experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Kenya while carrying out the services under the contract.
- ii) Clause 41.1 states that, if the procuring entity had delayed payments beyond thirty (30) days after the due date stated in clause GCC 41.2.2, interest shall be paid to the consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the special conditions of contract.
- iii) Clause 46.1 states that, the procuring entity shall display marks and logos provided by consultant on its marketing publications and materials related to revenue collection and e-payments. The procuring entity may mention the words 'Payments provided by JamboPay' in its marketing campaigns and materials. The procuring entity shall market the revenue collection service or system to its consumers or citizens.
- iv) Further, Part C of the preamble indicates payment to the contractor of 6% of all funds collected as transaction fees which seems to be on the higher side.

In the circumstances, the terms of the contract agreement are not beneficial to the County Executive.

854. Failure to Install Hospital Management System at Subcounty Hospitals

The County Executive awarded a tender to a company for supply, delivery, installation, customization and commissioning of an Integrated Revenue Collection and Management System and a Hospital Information Management System at a contract sum of Kshs.59,885,232. However, verification of the implementation of the contract agreement revealed that the hospital information management system was only installed at Busia County Referral Hospital but not other Sub-County hospitals within the County.

In the circumstances, the effectiveness of implementation of the Integrated Revenue Collection and Management System and a Hospital Information Management System worth Kshs.59,885,232 could not be confirmed.

855. Irregular Procurement of Consultancy Services for Busia County Referral Hospital

During the year under review, a contract was awarded to a consultancy company at a contract sum of Kshs.4,980,550 for provision of consultancy services for feasibility study for the Busia County Referral Hospital to be a fully-fledged Level V hospital. However, review of the procurement file revealed that there was no evidence that preliminary financial and technical evaluation of the tenders was undertaken and that regrets letters to the unsuccessful tenderers were sent.

Further, review of annual development plan for the financial year 2023/2024 Paragraph 9.1 on performance overview for 2021/2022 reveals that the Hospital was upgraded to Level 5 through Gazette Notice of 17 December, 2021. It was not clear why feasibility study was carried out three (3) years later after the Hospital was upgraded. In addition, terms of reference, expected milestones, performance benchmarks to be realized and performance reports on what was done were not provided for audit.

In the circumstances, value for money realized on the amount spent on the consultancy services amounting to Kshs.4,980,550 could not be confirmed.

856. Unsupported Procurement of Consultancy Services on ICU Unit at Busia County Referral Hospital

During the year ended 30 June, 2024, the County Executive entered into an agreement with a company for provision of consultancy services on installation, commissioning, testing, and training on operationalization of ICU unit at Busia County Referral Hospital at a contract sum of Kshs.4,955,000. However, terms of reference, expected milestones, performance benchmarks to be realized and performance reports on what was done were not provided for audit.

In the circumstances, value for money realized on the amount spent on the consultancy services amounting to Kshs.4,955,000 could not be confirmed.

857. Irregularities in Purchase of Refrigerated Truck

Information available indicates that the County Executive awarded a contract to a local company and Local Purchase Order 0670 dated 26 August, 2014 at a contract sum of

Kshs.5,800,000 for the supply of a refrigerated truck. Documentary evidence on the method of procurement used and the requisition by the user department were not provided for audit. The vendor sued the County Executive for delayed payment vide civil suit number 289 of 2017. The County Executive was ordered by the court to pay the principal amount of Kshs.5,809,460, interest that had accrued over the years amounting to Kshs.3,601,865, and costs of the suit of Kshs.341,980, all totalling Kshs.9,753,305. The County Executive has to date paid the company a total of Kshs.9,738,000 in two instalments of Kshs.4,500,000 and Kshs.5,238,000, respectively.

Physical verification in September, 2024 revealed that the vehicle was parked at the County Commissioner's Offices in Busia Town, was not in use and was in a dilapidated condition. Further, the truck bears a private registration number and has not been transferred to the County Executive. In addition, no evidence was provided for audit on whether the truck had ever been used by the County Executive.

In the circumstances, the County Executive did not get value for money on expenditure amounting to Kshs.9,738,000 incurred on the purchase of the refrigerated truck.

858. Irregular Award of Tenders to Private Law Firms

The Office of the County Attorney engaged the services of private law firms during the year under review costing Kshs.8,546,000. However, supporting documents including requisitions by the user department to the County Executive Committee, approvals of the requisition by the County Executive Committee, tender invitation advertisements, notification of award of tenders, acceptance of award letters and tender evaluation committee reports were not provided for audit. This was contrary to Section 119(3) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall advertise the notice inviting expressions of interest in the dedicated government's advertising tenders' portal and in its own website, or in at least one daily newspaper of nation-wide circulation.

Further, justification for use of private law firms and not the services of the County Attorney was not provided contrary to Section 16 of the County Attorney Act, 2020 which states that a department or public entity established within a County Executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without the approval of the County Executive Committee.

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

859. Failure to Prepare and Submit Financial Statements of Municipalities and Hospitals

During the year under review, the County Executive did not prepare and submit for audit, financial statements for two (2) Municipalities, two (2) County referral hospitals and five (5) Sub- County hospitals. This was contrary to Section 164 (1) and (4)(a) of the Public Finance Management Act, 2012 which provides that at the end of each financial year, the accounting officer for a county government entity shall prepare financial statements in respect of the entity in formats to be prescribed by the Accounting Standards Board and within three months after the end of each financial year, the accounting officer for an entity shall submit the entity's financial statements for audit.

In the circumstances, Management was in breach of law.

860. Irregularities in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects compensation of employees' payments totalling Kshs.3,085,605,917. However, the following unsatisfactory matters were noted.

860.1 Non-Compliance with National Cohesion and Integration Act, 2008

The County Executive had three thousand seven hundred and seventy-six (3,776) employees as at 30 June, 2024. However, it was noted that three thousand, three hundred and twenty-two (3,322) members of staff or 88% were from one dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

860.2 High Wage Bill Above Allowed Threshold

The statement of receipts and payments reflects revenue totalling Kshs.7,813,249,712 and compensation of employees' payments totalling Kshs.3,085,605,917. The compensation of employees' costs constituted thirty-nine (39%) of the total receipts of the County Executive for the year under review contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations 2015 which provides that the employees costs should not exceed 35% of the County Executive total revenue.

860.3 Non-Compliance with the One-Third Basic Salary Rule

Review of the Integrated Payroll and Personnel Database (IPPD) for the year under review revealed that one thousand and thirty-two (1,032) employees had net pay less than one-third of their respective basic salaries, contrary to the requirements of Section 19(3) of the Employment Act, 2007 which provides that the total deductions from salaries of employees shall not exceed two-thirds of their respective basic salaries.

860.4 Irregular Engagement of Staff Above Mandatory Retirement Age

Analysis of IPPD Payroll for the year ended 30 June, 2024 revealed that the County Executive irregularly engaged five (5) staff despite them having attained the mandatory retirement age of sixty years. This was contrary to Clause D.12 of the Human Resources Policies and Procedures Manual for the Public Service, 2016 which states that all officers shall retire from the Service on attaining the mandatory retirement age of 60 years, 65 years for persons with disabilities and/or as may be prescribed by the Government from time to time.

860.5 Irregular Appointment of County Attorney

Review of the appointment letter of the County Attorney dated 18 November, 2022 revealed that, the County Attorney was appointed on a two (2) year renewable contract

contrary to Section 6(1) of the Office of the County Attorney Act, 2020 which states that the term of office of the County Attorney shall be six (6) years.

860.6 Staff Salary Payment Outside Integrated Payroll and Personnel Database

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects an amount of Kshs.3,085,605,917 in respect to compensation of employees. Review of salary records on the expenditure revealed that the expenditure included wages totalling Kshs.119,036,047 which was paid through manual payroll system. The manual payroll requires a manual calculation of monthly deductions such as PAYE, NHIF, and NSSF and the Net salary by the Human Resource Officers, and may be prone to error and other forms of misstatement. This was also contrary to Section 1.5.1 of The National Treasury Financial Accounting, Recording and Reporting Manual which provides that personnel emoluments of County Government staff should be paid through IPPD.

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

861. Unexplained Development and Implementation of Climate Change Policies

During the year under review, the County Executive through the Department of Water, Irrigation, Energy, Natural Resources and Climate Change entered into a contract with a consultancy firm at a contract sum of Kshs.4,000,000 for the development of County Climate Change Finance Policy. Further, the County Executive entered into a contract with another consultant for provision of consultancy services on development of Busia County Climate Change Policy at a contract sum of Kshs.5,985,500. However, as at the time of audit in October 2024, there was no evidence that the policies had been approved and adopted for use. Further, there is no justification for incurring costs totalling Kshs.9,985,500 on development of two (2) separate policies on climate change.

In the circumstances, the delay in the implementation of the climate change policies impacted negatively on service delivery to the public in respect to mitigation measures on the effects of climate change.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

862. Operating Without an Approved Staff Establishment

Review of the June 2024 payroll revealed that during the year, the County Executive paid three thousand, eight hundred and fourteen (3,814) and one hundred and eighteen (118) employees through the Integrated Payroll and Personnel Database (IPPD) and manual payrolls respectively, totalling three thousand, nine hundred and thirty-two (3,932) employees. However, audit carried out revealed that the County Executive did not have an approved staff establishment during the year, and therefore the optimal staffing levels for all cadres of staff had not been established.

In the circumstances, the effectiveness of human resource management could not be confirmed.

863. Lack of WIBA Insurance Policy for Employees

During the year under review, the County Executive did not procure Work Injuries Benefit Insurance Act (WIBA) Policy for its employees contrary to Section 7(1) of the Work Injuries Benefit Act, 2007 which states that every employer shall obtain and maintain an insurance policy, with an insurer approved by the Minister in respect of any liability that the employer may incur under this Act to any of his employees.

In the circumstances, Management of employees' welfare, including their safety at work was not effective.

864. Lack of Updated Fixed Assets Register

Annex 6 to the financial statements on summary of non-current assets register reflects a balance of Kshs.10,848,227,766 being the historical value of non-current assets of the County Executive. However, the County Executive lacked a fixed asset register prepared in the format prescribed with minimum requirements of identification or serial number, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value and identification codes with which assets were tagged contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, effectiveness in assets management could not be confirmed.

COUNTY EXECUTIVE OF SIAYA – NO.41

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

865. Unsupported Compensation of Employees

The statement of receipts and payments reflects an amount of Kshs.2,872,515,819 in respect of compensation of employees as disclosed in Note 3 to the financial statements. Review of the payroll records revealed the following unsatisfactory matters:

- i. The County Executive engaged the services of two thousand one hundred and twenty-eight (2,128) community health workers and spent an amount of Kshs.76,608,000 on wages in the year. Each of the Health Worker was paid an amount of Kshs.3,000 per month. However, records on how the workers were recruited were not provided for audit.
- ii. Review of the IPPD records revealed that one hundred and ninety-two (192) members of staff were paid an amount of Kshs.3,141,120 as special allowances. Although Management explained that some of the staff members were employed as revenue collectors, at a monthly salary of Kshs.14,675 for a contract period of three (3) years, no documentary evidence was presented to show the recruitment process and the agreed salary.
- iii. Further, review of payroll for the months of July and December, 2023 and January and June, 2024 revealed that twenty (20) members of staff were sharing a bank account number. Management explained that the Account was held at Shirika Fosa account and was a member's holding account at the bank. The respective bank receives and dispatches net earnings to the members, upon recovery of loans advances. It was however not clear how the County Executive would be paying net salaries to a joint account instead of remitting amounts owing to the FOSA account.
- iv. In addition, the County Executive made salary payments amounting to Kshs.14,509,755 to two hundred and forty (240) members of staff in the month of June, 2024 outside the Integrated Payroll and Personnel Database (IPPD) through vouchers. Management attributed the payments to funeral expenses, baggage allowances and unremitted gratuity.

In the circumstances, the existence, completeness and accuracy of the compensation of employees amounting to Kshs.2,872,515,819 could not be confirmed.

866. Irregularities in Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.1,466,219,871 relating to use of goods and services. However, the following unsatisfactory matters were noted;

866.1 Excess and Unsupported Payment of Domestic Travel and Subsistence Allowance

Included in the expenditure is an amount of Kshs.348,443,387 in respect of domestic travel and subsistence which includes an amount of Kshs.51,744,232 paid to nineteen (19) members of staff. Review of the payments revealed each member of staff was paid an amount exceeding Kshs.2,000,000, which was indicative of having worked out of their work station for a period exceeding one hundred and twenty (120) days in the year. This appears excessive as most of the County Executive work is undertaken within the County.

In the circumstances, the occurrence, completeness and accuracy of the domestic travel and subsistence expenditure amount of Kshs.51,744,232 could not be confirmed.

866.2 Unsupported Hiring of Transport Companies

Included in the domestic travel and subsistence allowance amount of Kshs.348,433,387 is an amount of Kshs.70,751,623 paid to three (3) travel companies for transporting staff. However, it was not clear how the companies were identified. The basis and justification for the amounts paid was unclear as the County Executive has its own transport department and the staff travelling had been paid their travel and per diem allowances.

In the circumstances, the occurrence, completeness and accuracy of transport expenses amounting to Kshs.70,751,623 could not be confirmed.

866.3 Unsupported Payments to the County Executive

Review of the domestic travel and subsistence allowance revealed that an amount of Kshs.3,360,000 was paid as domestic travel and subsistence allowance described as payment to the Siaya County Government. Management did not explain the purpose for and the beneficiary of the payment.

In the circumstances, occurrence, accuracy and completeness of the expenditure totalling Kshs.3,360,000 could not be confirmed.

866.4 Irregular Payment of Sitting Allowances to Members of County Assembly

Included in the domestic travel and subsistence expenditure is an amount of Kshs.2,903,600 paid to Members of the County Assembly of Siaya in respect of interrogation of the audit reports. However, the County Assembly has its own approved budget for appropriations of these meetings and oversight roles. Further, the allowances were directly expensed before surrender hence not accounted for which was irregular.

In the circumstances, the regularity and value for money amounting to Kshs.2,903,600 could not be confirmed.

866.5 Unsupported Training Expenses

Included in the use of goods and services is an amount of Kshs.14,596,631 incurred on training expenses. However, review of the supporting documents including

payment vouchers, revealed that the expenditure was not supported by training need assessments from individual staff trained as required by Section H.3(1) of the Public Service Commission Human Resource manual of May, 2016 which states that training in the Public Service shall be based on training needs assessment. Further, Section H.3(3) states that selection of trainees for all training programme will be based on identified needs and will emphasize on training for performance improvement that address individual, organizational and national goals.

In the circumstances, the occurrence, completeness and accuracy of the training expenditure amounting to Kshs.14,596,631 could not be confirmed.

866.6 Unsupported Legal Fees

Included in the use of goods and services is an amount of Kshs.310,398,410 relating to other operating expenses which further includes legal fees amount of Kshs.34,662,766. Review of the legal fees revealed that an amount of Kshs.26,000,000 was paid to a firm of advocates for an out of court settlement. However, the details of the case and how the amounts were arrived at was not provided for audit. Further, an amount of Kshs.4,060,000 was paid to an advocate in a civil case between the County Public Service Board and former employees. The amount paid was not supported by any evidence of court attendance and individual itemized billing to inform charges shown in the fee notes as per schedule 6 of the Advocates Remuneration Order 2014. In addition, the County Executive had pending bills relating to decretal fees totalling Kshs.33,117,621.

In the circumstances, the completeness, occurrence and accuracy of legal fees amounting to Kshs.34,662,766 could not be confirmed.

867. Irregularities in Other Grants and Transfers

The statement of receipts and payments reflects an amount of Kshs.731,951,475 relating to other grants and transfers as disclosed in Note 7 to the financial statements. However, review of the Integrated Financial Management Information System (IFMIS) report revealed the following inconsistencies:

867.1 Unreconciled Variances Between IFMIS Records and Financial Statements

Note 7 to the financial statements reflects an amount of Kshs.200,112,952 and Kshs.112,500,000 that were at variance with Integrated Financial Management Information System (IFMIS) amount of Kshs.195,112,952 and Kshs.4,482,915 under grants and transfers to National Value Chain Development Project and Siaya County Aggregation and Industrial Park or Breach Co. resulting to an unexplained variance of Kshs.5,000,000 and Kshs.108,017,085, respectively.

Further, the transfers included amounts to DANIDA and Youth Polytechnic amounting to Kshs.21,659,049 and Kshs.16,054,330, respectively not recorded in IFMIS report. Management did not explain how the balances were transferred without being recorded in IFMIS.

867.2 Payments to Companies Reflected as Transfers

Included in the other grants and transfers amount in the IFMIS is an amount of Kshs.178,246,942 paid to third party entities but indicated as transfers to related party

entities. Management did not provide reconciliation or explanation for the inconsistencies.

In the circumstances, the occurrence, completeness and accuracy of other grants and transfers amounting to Kshs.713,747,089 could not be confirmed.

868. Inaccuracies in Bank Balances

The statement of assets and liabilities reflects bank balances of Kshs.89,024,823 as disclosed in Note 13A to the financial statements. Included in the bank balances are County recurrent and development accounts bank balances of Kshs.6 and Kshs.256 respectively. However, bank reconciliation statements for the recurrent account includes receipts in bank not recorded in cash book amounting to Kshs.392,025,630 that took place in the month of July, 2024 outside the current accounting period.

Further, the bank reconciliation statements for the development account includes receipts in cash book not recorded in bank statement amounting to Kshs.230,096,435 that took place in the Month of July, 2024 outside the accounting period. In addition, receipts amounting Kshs.279,096,435 had no date details indicated against it in the bank reconciliation statements. This was indicative of non-adherence to the cut-off period.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.89,024,823 could not be confirmed.

869. Unsupported Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,949,578,355 as disclosed in Note 9 to the financial statements, which includes an amount of Kshs.32,970,000 for the acquisition of parcels of land. Review of documents provided for audit revealed that County Executive acquired nine (9) parcels of land through the Department of Lands, Housing and Physical Planning as shown in Annex 6 to the financial statements under summary of non-current asset register. However, physical verification of the parcels of land revealed that the land was neither surveyed, fenced nor beacons making it difficult to determine the boundaries. This posed a risk of encroachment. Further, no documentary evidence was provided for audit verification to show registration of the said land in favour of the County Executive as well as the basis for the value paid as consideration.

In the circumstances, the existence, ownership and valuation of the land balance of Kshs.32,970,000 could not be confirmed.

870. Non-Adherence to End of Period Cut-Off Procedures

The statement of receipts and payments reflects an amount of Kshs.7,095,447,929 in respect of transfers from County Revenue Fund (CRF) and as disclosed in Note 1 to the financial statements. However, review of Central Bank of Kenya (CBK) bank statements revealed transfers from Exchequer totalling Kshs.710,018,028 received between 2 July to 5 July, 2024 which was outside the cut off period of 30 June, 2024.

In the circumstances, the accuracy and completeness of the transfers from CRF amounting to Kshs.7,095,447,929 could not be confirmed.

871. Unexplained Voided Transactions

Review of the IFMIS transactions revealed that one thousand five hundred (1,500) transactions valued at Kshs.560,626,783 were voided. Management did not explain why the payments were voided yet they had been approved. Further, no evidence was provided for audit to confirm that the Controller of Budget approved the voiding of the payments and how the proceeds of the voided transactions had been applied.

In the circumstances, the regularity of voided payments amounting to Kshs.560,626,783 could not be confirmed.

Emphasis of Matter

872. 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.8,622,296,906 and Kshs.7,095,447,929 respectively, resulting in an under-funding of Kshs.1,526,848,377 or 18% of the budget. However, the County Executive incurred an expenditure amounting to Kshs.713,951,475 on other grants and transfers without a budget. No explanation was provided by Management on why they failed to budget for it.

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

873. Pending Bills

Note 21 under other important disclosures reflects pending bills on accounts receivables, staff payables and other pending payables balance of Kshs.1,186,014,496, Kshs.209,142,167 and Kshs.70,895,164, respectively totalling Kshs.1,466,051,827 which remained unsettled as at time of audit. This was contrary to Regulation 150(1) of the PPAD Act Regulations, 2020 which requires that subject to availability of funds and certification of goods, works or service payments are made within 60 days from date of receipt of invoice.

Further, review of Annex 2 to the financial statements revealed that some of the pending bills relates to constructions of roads and civil works and supply of goods and services which were incurred between 2015-2023 financial years but had not been settled. The County Executive therefore is at risk of incurring significant unquantified interest's costs and penalties with the continued delay in settling invoiced bills.

My opinion is not modified in respect of these matters.

Other Matter

874. Unresolved Prior Year Matters

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

Resources and Report on Effectiveness of Internal controls, Risk management and governance. However, the Management had not resolved the issues as at 30 June, 2024.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

875. Failure to Construct Governor's Residence and Irregular Rental Allowance

Review of rental house allowance records show that the County Executive incurred an amount of Kshs.3,600,000 on the Governor's and Deputy Governor's rent expenses. However, the expenditure would have been avoided had the County Executive constructed and implemented Salaries and Remuneration Commission (SRC) Circular Ref. No. SRC/TS/CoG/6/61/48 Vol.II (64) dated 20 May, 2017 which gave guidelines on housing benefits for Governors, Deputy Governors and County Assembly Speakers. The Commission gave a deadline of 30 June, 2022 for the commissioning of the Governor's and Deputy Governor's residence.

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

876. Failure to Pay Full Premium on Staff Medical Insurance

Review of medical insurance records show that Management signed a contract for provision of employees' medical insurance services on 4 October, 2023 at a premium amount of Kshs.201,970,162 for the period commencing 22 October, 2023 to 21 October, 2024. However, payment records show that Management paid an advance premium amounting to Kshs.105,040,484 or (52%) instead of the contractual premium of Kshs.201,970,162 payable in advance. This was contrary to provision of clause 4.2 of the signed contract. Further, Section 156(1) of the Insurance Act, 2020 requires that no insurer shall assume a risk unless and until the premium payable thereon is received by the insurer.

In addition, although records indicated that renewal of the medical cover for the Executive was agreed on 4 October, 2023 by National Hospital Insurance Fund, there was no prior notice in writing seeking for renewal of insurance cover before contract agreement was entered into and signed. Similarly, insurance policy document was not provided for audit.

In the circumstances, value for money incurred on insurance premium amounting to Kshs.105,040,484 could not be confirmed.

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

Review of the payroll revealed that the County Executive had two hundred and forty-five (245) employees whose net pay was below a third (1/3) of their basic pay contrary to Section 19(3) of the Employment Act, 2007 and Section C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 on Salary and Allowances which states that public officers shall not over-commit their salaries beyond two-thirds (2/3) of their basic pay.

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

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

Review of the June, 2024 IPPD and compliment controls revealed that eighty-nine percent (89%) of the permanent employees were from the local dominant community 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.

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

879. Irregularities in Imprest Management

The statement of assets and liabilities reflect outstanding imprest balance of Kshs.5,026,471 as disclosed in Note 15 to the financial statements. Review of the imprest records revealed that out of the balance is an amount of Kshs.520,050 relate to 2022/2023 while outstanding imprests balance of Kshs.5,307,721 were issued during the year. However, as at the time of audit in September, 2024, the imprests had not been surrendered. Further, records revealed that nine (9) members of staff were issued with multiple imprests amounting to Kshs.1,297,900 before surrender of the previous imprests. This was contrary to Regulation 93(8) of the Public Finance Management (County Governments) Regulations, 2015 which states that in order to effectively and efficiently manage and control the issue of temporary imprests, an Accounting Officer or AIE holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.

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

880. Failure to Implement Recommendations of the County Legislative Oversight Committee

The County Public Accounts and Investment Committee (PAIC) had deliberated on the audit report for the financial year ended 30 June, 2022 and made twenty-three (23) recommendations for the Management. However, a status of implementation report for the same year revealed that only one (1) recommendation had been implemented while twenty-two (22) others remained not implemented.

This was contrary to Section 31(1)(a) of the Public Audit Act, 2015 which states that within three (3) months after Parliament or the County Assembly has debated and considered the final report of the Auditor-General and made recommendations, a State Organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

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

881. Failure to Insure the County Executive Buildings

During the year under review, the County Executive incurred an amount of Kshs.112,440,484 on insurance covers for motor vehicles and employees' medical scheme. Review of the expenditure revealed that the County Executive buildings did

not have an insurance cover to mitigate against losses in case of disaster. This was contrary to Section 79(2)(c) of the Public Finance Management Act, 2012 which requires a public officer within his area of responsibility to ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property including application of best practice to prevent any damage from being done to the financial interest of the County Government.

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

882. Irregular Payments to Council of Governors and Lake Region Economic Bloc

The statement of receipts and payments reflects use of goods and services amount of Kshs.1,466,219,870 which includes other operating expenses amounting to Kshs.310,398,410 as disclosed in Note 4 to the financial statements. The other operating expenses includes amounts of Kshs.3,000,000 and Kshs.1,500,000 paid to the Council of Governors and the Lake Region Economic Bloc respectively. This was contrary to Section 37 of Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government.

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

883. Delayed, Stalled and Incomplete Projects

883.1 Delay in Installation of the Three-Phase Electricity Power at the Siaya Stadium

The County Executive engaged the Kenya Power and Lighting Company to install a three-phase electricity power at a cost of Kshs.1,336,721. The requisitioning memo was done on the 23 September, 2023 while the payment was made on 16 November, 2023. However, physical verification of the stadium revealed that the transformer was yet to be installed and thus the stadium had no power connected to it. It was, therefore, not clear why the Company had delayed to install a three-phase electricity power.

883.2 Non-Installation of Stadium VIP Seats

The County Executive signed a contract with a contractor on 8 April, 2024 at a contract sum of Kshs.25,101,114 for the installation of stadium VIP seats. The seats were of two categories one being simple mounted middle backrest stadium seats one thousand, four hundred and ninety-four (1,494) and foldable mounted middle backrest stadium seats five hundred and sixteen (516).

During the year under review, the contractor was paid an amount of Kshs.5,020,222, being advance payment as per clause 14.2 which had been further defined on the special conditions of the contract being 20% of the accepted contract amount. The advance was meant to be an interest free loan for mobilization and cash flow support. However, an approved requisition from the user department was not provided for audit. Further, the payment was not supported with an inspection report from the project implementation committee to certify work done before payment.

In addition, physical verification of the seats showed that the contractor installed one thousand, four hundred and ninety-four (1,494) simple mounted middle backrest seats as in the Bills of Quantities (BQs) and four hundred and seventy-one (471) foldable mounted middle backrest seats being forty-five (45) less of what was stated in the BQs. Although the Management explained that the contractor had not been fully paid, it was not clear why fewer seats were installed.

883.3 Delay in Construction of Perimeter Wall at Migwena Sports Cultural Center

The County Executive entered into a contract with a firm for the proposed construction of a perimeter wall at Migwena Sports Cultural Center at a contract sum of Kshs.33,841,097. Review of the status report provided for audit indicated that commencement date was 31 January, 2024 for a contract period of twenty-four (24) weeks. The intended completion date was indicated as 31 July, 2024. However, payment records revealed that cumulative payments amounting to Kshs.28,718,584 or 85% of the contract sum had been paid during the year under review for certificate number No. 1 and 2.

Further, Section M of the Bill of Quantities (BOQ) required the fence to have horizontal and vertical key pointing to wall surfaces both sides c/w black paint to keyed surface. However, physical verification in September, 2024 revealed that the inner wall was plastered and horizontal keying was only done on the outside wall. This was contrary to the signed BOQ. Further, it was not clear how the changes were done as there was no approved documentation provided for audit. In addition, the project was yet to be completed and performance bond amounting to Kshs.676,821 had expired on 22 August, 2024. No renewal of the performance was provided for audit. Similarly, no approval had been given by the accounting officer for extension of time.

Cultural Center would ordinarily be expected to have integration of architectural features, forms, materials, and artwork, etc. as an active part of the future. Physical verification revealed that only a perimeter wall existed in Migwena hence, does not meet the parameters of a cultural center.

883.4 Delay in Completion of Proposed Washroom, Gravelling Works, Waterworks, Powerhouse and Electrification

The County Executive signed a contract for a sum of Kshs.18,630,456 for provision of the proposed washroom, gravelling works, waterworks, powerhouse and electrification at Migwena. Review of expenditure records revealed that the contractor was paid an amount of Kshs.4,350,440 for works done.

The contract period was twenty-four (24) weeks with a commencement date of 8 February, 2024 and a completion date of 8 August, 2024. No approval had been given by the accounting officer for extension of time.

883.5 Irregular Escalation of Project Cost and Delay in Construction of Stadium

The County Executive signed a contract on 30 August, 2018 with a construction company for the construction of a stadium at a contract sum of Kshs.394,661,767 starting on 1 January, 2019 to 6 December, 2019. The contract sum was revised to Kshs.488,716,823 resulting to a contract variation price of Kshs.94,055,056 or 24%.

However, there was no evidence of recommendations by an Evaluation Committee for these variations contrary to Section 139(1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

Further, the project status report provided for audit showed that the project had nine (9) extensions as of 30 August, 2024. The same could not be verified as the said extension were not provided for audit. In addition, no documentation was provided to confirm approval of the extension by the accounting officer.

883.6 Delay in Construction of County Aggregation and Industrial Parks

The County Executive contracted a firm to construct County Aggregation and Industrial Park, a multi-year project at a contract sum of Kshs.483,688,922. The firm was handed over the site on 30 August, 2023 and was expected to take twenty-eight (28) weeks to completion from the date of site handing over. The Contract agreement was signed on the 18 August, 2023. The firm requested for a 15% advance amounting to Kshs.72,553,338 vide their request letter dated 23 August, 2023. However, the County Executive paid an amount of Kshs.48,368,892 being advance payment.

During the evaluation stage the firm gave a list of property, plant and equipment (PPE) that would be at their disposal for the execution of the contract and those to be hired had ownership documents confirmed as true copies of the originals by a law firm. However, no lease agreement of availability of assets for use by the firm from third party was provided for audit review.

Physical verification of the project in September, 2024, revealed the following:

- i. The contractor had done foundation and skeleton bars, high yield steel structures for two warehouses.
- ii. Levelling of foundation for two (2) value addition warehouses and one (1) warehouse had been done but not completed.
- iii. One (1) warehouse and two (2) value addition warehouses had not been started. The location where they would be built was still uncleared and bushy.
- iv. There was no property, plant and equipment on site.
- v. There was no sign of any work on-going.
- vi. There were no materials on site except for some few steel bars.
- vii. The contract had taken slightly over 40% of the completion period of twenty eight (28) weeks with no certificate being issued.

Management did not explain the reason why the contractor was not on site and no major works that had been done. In view of these, the capacity of the contractor to handle the above works was in doubt.

Further, the Management had not valued the works done so far in comparison with the advance payment amounting to Kshs.48,368,892.

883.7 Incomplete Construction of Yala Cattle Ring in Yala Township Ward

The County Executive signed a contract on 12 February, 2024 at a contract price of Kshs.4,500,963 inclusive of 16% VAT with a firm for completion of Yala market cattle

ring in Yala township ward for a period of twelve (12) weeks. The firm took possession of site on 20 March, 2024 with an expected completion date of 20 July, 2024. Physical verification of the project revealed that the project completion date had elapsed with no approval for extension and contractor was not on site.

883.8 Construction of Four (4) Door Flushable Toilets and Four (4) Bathrooms at Akala Health Centre

The County Executive awarded a firm a tender for construction of four (4) doors flushable toilet and four (4) doors bathroom at Akala Health Centre in South Gem Ward. The contract was signed on 16 February, 2024 at a contract sum of Kshs.3,215,578. The works commenced on 7 March, 2024 with a contract duration of three (3) months, hence expected completion date was 10 June, 2024. The Engineer of works certified the works at 36% complete on 8 April, 2024 and approved payment amount of Kshs.1,157,394. The contractor presented an invoice no.651 dated 8 April, 2024 and was paid an amount of Kshs.1,000,000. However, physical verification conducted in September, 2024 revealed that no works had been ongoing since the date of the certification. Further, only substructure works and wall frames were done. In addition, the contract period elapsed on 10 June, 2024 and the contractor had not sought approval for extension of the contract period.

883.9 Idle Equipment-X-Ray Machine at Got Agulu Hospital

The County Executive through the Department of Health awarded a firm a tender for supply, delivery and installation of an X-Ray machine (Quantas model) at Got Agulu Hospital. However, physical verification in the Month of September, 2024 revealed that the X-Ray machine was not in use due to lack of a radiographer to operate it.

In the circumstances, the amount of money incurred on the above projects that have delayed, stalled and incomplete were a waste of public funds and the public may not have got value for money.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

884. Failure to Prepare a Risk Assessment Report

During the year under review, there was no documentary evidence to confirm that the County Executive conducted a risk assessment to identify potential risk exposure, possibility of their occurrence and their mitigating strategies. This was contrary to Regulation 158(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that an accounting officer of a County Government entity shall develop risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control that builds robust business operations.

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

COUNTY EXECUTIVE OF KISUMU– NO.42

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

885. Inaccuracies in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects an amount of Kshs.4,462,912,350 in respect of compensation of employees. However, the amount is at variance with the payroll ledger amount of Kshs.5,009,494,983 resulting in an unexplained and unreconciled variance of Kshs.546,582,633.

In the circumstances, the accuracy and completeness of compensation of employees amounting to Kshs.4,462,912,350 in respect to could not be confirmed.

886. Irregularities in Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure amount of Kshs.1,179,828,217 as disclosed in Note 3 to the financial statements. Review of documents provided for audit revealed the following anomalies;

886.1 Unsupported Domestic Subsistence Allowances

The expenditure includes payments amounting to Kshs.280,708,799 in respect of domestic travel and subsistence allowances. Review of the expenditure revealed unsupported per diems totalling Kshs.3,381,000 with details of the nature of activities, requisitions, budgets and subsequent approvals by accounting officers. Further, imprests issued for travels amounting to Kshs.5,330,000 were supported with less days than the approved and paid ones.

In the circumstances, the accuracy, completeness and occurrence of domestic travel and subsistence allowances amounting to Kshs.8,711,000 could not be confirmed.

886.2 Unaccounted for Fuel

The expenditure includes payments amounting to Kshs.94,821,894 in respect of fuel, oil and lubricants. However, review of the supplier statement and work tickets provided for audit revealed discrepancies in the fuel drawn. Examination, of procurement documents provided for audit revealed that the payments were based on an expired contract agreement. Further, fuel amounting to Kshs.1,000,000 paid could not be traced in the supplier statement. In addition, work tickets for fuel expenditure totalling Kshs.2,767,789 were not provided for audit.

In the circumstances, the accuracy, occurrence and completeness of fuel, oil and lubricants expenditure of Kshs.94,821,894 could not be confirmed.

886.3 Unsupported Legal Expenses

The expenditure includes payments amounting to Kshs.93,645,292 in respect of other operating expenses. Included in the expenditure is an amount of Kshs.46,078,251 paid to legal firms representing the County Executive in various legal cases and providing

legal consultancy. Review of the documents provided for audit revealed the following anomalies:

- i. Expenditure amounting to Kshs.22,496,355 was not supported with documents such as list of pending legal cases, outstanding legal fees and fees paid upto date per case, contract agreements, procurement records, stage of proceedings of each case, breakdown of legal fees in fee notes and evidence of court attendance, rate as per advocate remuneration roll, statements or ledgers of advocates accounts and case files showing the value of each case.
- ii. There was no approval by the County Executive Committee to engage the legal consultants contrary to Section 16(1) of the Office of the County Attorney Act, 2020 which provides that a department or public entity established within a County Executive shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without written approval of the County Executive Committee and a request to engage those services shall be in writing.
- iii. Management paid an amount of Kshs.3,000,000 to a legal firm as part of decretal fees. However, the certified decree and the current status of the legal case were not provided for audit. Further, the same legal firm was paid an amount of Kshs.5,570,979 for a court decree in matter of citing County Executive Committee Member (CECM) and Chief Officer Finance in contempt for disobeying court orders. No justification or explanation was provided for failure to abide to the Court orders which resulted in the wasteful expenditure.
- iv. Management made a payment amounting to Kshs.14,200,000 to a legal firm for an outstanding decretal debt. However, details and current status of the debt and acknowledgment for payment for the debt were not provided for audit.
- v. Management made a payment amount of Kshs.3,000,000 to a law firm for representing the County Executive for claim of contempt of a court order for payments of Kshs.377,873,193. The Interim fee note dated 22 December, 2022 amounted to Kshs.6,793,496. However, details of the order for payments amount of Kshs.377,873,193 were not provided for audit. Further, the amount of Kshs.3,000,000 paid was a wasteful expenditure as it was avoidable.

In the circumstances, the accuracy, completeness and proper charge on public funds on legal services amounting to Kshs.46,078,251 could not be confirmed.

887. Variances in Transfers to Other Government Agencies

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.1,419,154,196 relating to transfers to other government units. Included in the expenditure is an amount of Kshs.486,367,221 in respect of Appropriation-In-Aid (AIA). However, examination of receiving entities records revealed AIA collection amount of Kshs.475,159,612 during the year resulting to an unexplained and an unreconciled variance of Kshs.11,207,609.

In the circumstances, the accuracy and completeness of the transfers to other government units amounting to Kshs.1,419,154,196 could not be confirmed.

888. Inaccuracies in Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.210,896,225 comprising of bank balances of Kshs.210,887,125 and cash balances of Kshs.9,100. However, review of the bank reconciliation statements for various accounts held by the County Executive had the following unsatisfactory issues:

- i. The bank reconciliation statement for the Kisumu County Deposit account reflects unpresented cheques amounting to Kshs.8,990,603 out of which stale cheques amounted to Kshs.2,901,984 which had not been reversed in the cash book.
- ii. The Kisumu County Universal Health Care Account reported a year-end bank balance of Kshs.9. The account has remained dormant for the past three (3) years, with no significant transactions or activities recorded during this period.
- iii. Note 8A to the financial statements reflects an amount of Kshs.9,495,725 under the Kisumu County Deposit Account. However, the bank reconciliation statement as well as the manual cashbook reflects a balance of Kshs.18,486,329 resulting in a variance of Kshs.8,990,603 which has not been reconciled or explained.
- iv. Review of cashbooks and reconciliations provided for audit revealed four (4) bank accounts with a bank balance of Kshs.7,236,579 were not reported in the financial statements.

In the circumstances, the accuracy, existence and completeness of cash and cash equivalents balance of Kshs.210,896,225 could not be confirmed.

889. Unsupported Contingent Liability

Note 10 under other important disclosures to financial statements reflects contingent liabilities for the current year balance of Kshs.3,326,834,404. However, the contingent liabilities register at Annex 8 reflects a balance of Kshs.2,157,868,820 resulting to an unexplained and an unreconciled variance of Kshs.1,168,965,584. Further, the contingent liabilities were not supported by relevant documentary evidence.

In the circumstances, the accuracy, completeness and existence of the contingent liabilities balance of Kshs.3,326,834,404 could not be confirmed.

890. Unexplained Voided IFMIS Transactions

Analysis of the Integrated Financial Management Information System payments transactions revealed that four thousand, one hundred and twenty-seven (4,127) transactions valued at Kshs.2,667,105,751 were voided during the year under review. However, Management did not provide supporting documents of the voided transactions by way of voided payment vouchers, requests to void, The National Treasury approvals and Exchequer requisitions from the Controller of Budget. Further, reconciliation of voided payments to pending accounts payables and cancelled payments were not provided for audit.

In the circumstances, the accuracy and completeness of total voided expenditure amounting to Kshs.2,667,105,751 could not be confirmed.

891. Irregular Payment of Social Security Benefits

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects social security benefits payments amount of Kshs.85,169,981. Included in the expenditure is gratuity payments of Kshs.1,571,788 to a Senior Assistant Administrator who was on contractual terms since 3 June, 2013. However, Management did not provide evidence that the case was referred to the County Public Service Board (CPSB) for renewal. The Officer had been on contract for more than ten (10) years contrary to Section B.15 of the County Human Resource Manual, 2013 which states that contract employment will be kept to a maximum period of five (5) years. Contracts can be renewed for another period of five years once.

Further, the social security benefits include gratuity of an amount of Kshs.1,109,839 payable to a County Senior Staff member who had been reinstated back to service in July, 2020 after resignation in 2017. However, documents to support the reappointment and re-designation by the County Public Service Board (CPSB) were not provided for audit.

In the circumstances, the completeness and regularity of gratuity benefits amounting to Kshs.2,681,627 could not be confirmed.

892. Irregularities in Pending Bills

Note 1 under other important disclosures to financial statements reflects pending bills balance of Kshs.2,735,945,419. However, pending bills schedule reflects pending bills balance of Kshs.2,743,140,069 resulting to an unexplained and an unreconciled balance of Kshs.7,194,650. Further, the schedule provided for audit excluded outstanding rent arrears for liaison offices amounting to Kshs.27,425,508. In addition, pending bills balance of Kshs.1,493,858,913 which should have been paid as a first charge were still outstanding as at 30 June, 2024. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which provides that debt service payments shall be a first charge on the County Revenue Fund.

Payments totalling Kshs.10,917,576 paid during the year under review were not listed or disclosed as part of the pending bills in the audited financial statements for the prior years. In addition, pending bills totalling to Kshs.20,263,671 were over paid by Kshs.3,853,727. Management has not done an analysis for pending accounts payables at annex 2 and 3 as prescribed by the financial reporting template.

In the circumstances, the Management was in breach of the law and continued accumulation of pending bills exposes the County Executive to potential losses and adversely affects the budgetary provisions.

Emphasis of Matter

893. Budgetary Control and Performance

The statement of comparison and actual amounts (recurrent and development combined) reflects final receipts budget and actual on comparable basis of

Kshs.12,557,553,292 and Kshs.8,584,243,710 respectively, resulting in an under-funding of Kshs.3,973,309,582 or 32% of the budget.

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

My opinion is not modified in respect of this matter.

Other Matter

894. Unresolved Prior year Matters

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

895. Audit of Performance Information

Review of performance as per monitoring and evaluation reports against County Predetermined Objectives for the year indicated that the County's 2023-2027 County Integrated Development Plan (CIDP) had identified key strategic development objectives. During the year under review Management implemented a program on procurement of dairy cows for Maseno ATC and KDDC. Chapter 8.1.2 of the monitoring and evaluation report indicated that twenty (20) in-calf dairy cows were delivered. However, the department did not provide evidence that the Department of Agriculture conducted tests to ascertain viability, quality and suitability of the cows before procurement. Further, comprehensive project implementation status report was not provided for audit to confirm the effectiveness of programme.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

896. Failure to Submit Financial Statement by County Entities

Five (5) County Level 4 hospitals did not prepare and submit their financial statements for the financial year ended 30 June, 2024 and prior years to the Auditor-General. These included Miranga Sub-County Hospital, Ober Kamoth Sub-County Hospital, Masogo Sub-County Hospital, Nyahera Sub-County Hospital and Rabuor Sub-County Hospital.

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

897. Non-Compliance with Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects payments totalling Kshs.4,462,912,350 in respect of compensation of employees representing 52% of the total receipts of Kshs.8,584,243,710. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015

which requires that the County Government's expenditure on wages and benefits for its public officers shall not exceed 35% of the County Government's total revenue.

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

898. Irregular Payments to Members of County Assembly and Staff

The statement of receipts and payments and as disclosed in Note 3 to the financial statements reflects use of goods and services amounting to Kshs.1,179,828,217 which includes domestic travel and subsistence amount of Kshs.280,708,799. The domestic travel and subsistence include imprest totalling Kshs.4,172,000 paid to County Executive staff members to facilitate County Assembly Budget and Appropriation Committee and Secretariat members for consultative meetings on proposed budget and Annual Development Plan 2024/2025. However, the payments which should have been paid by the County Assembly, were charged and expensed by the County Executive. This was contrary to Section 162 of the Public Finance Management Act, 2012 which requires public officer to ensure that resources within the officer's area of responsibility are used in a way that is lawful and authorized, effective, efficient, economical and transparent.

In the circumstances, regularity and value for money on the domestic travel and subsistence amounting to Kshs.4,172,000 could not be confirmed.

899. Irregular Payment to Machine Based Staff Allowances

The statement of receipts and payments reflects transfer to other government entities amount of Kshs.1,419,154,196 as disclosed in Note 4 to the financial statements. Included in the amount is other capital grants and transfers amount of Kshs.596,898,258 out of which an amount of Kshs.2,384,450 was paid in respect of machine-based staff allowances. However, justification on why staff were getting extra payments for performing their normal duties within their workstations was not provided for audit. This was contrary to Section 162 of the Public Finance Management Act, 2012 which requires a public officer to ensure that resources within the officer's area of responsibility are used in a way that is lawful and authorized, effective, efficient, economical and transparent.

In the circumstances, value for money on the machine-based staff allowances could not be confirmed.

900. Irregularities in Procurement

The County Executive awarded various contracts in respect of provision of services. However, the following anomalies were observed:

- i. Review of records revealed payments amounting to Kshs.928,000 and Kshs.2,699,235 were made for provision of documentary services for the State of County address by the Governor and provision of event management services for 2023 Finance Bill public participation respectively. However, the procurement was conducted outside IFMIS contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020. Further, during the public participation activity, it was noted that the service provider made partial deliveries as evidenced

by the items in the LSOs which did not match with the delivery notes. The inspection and acceptance committee report did not contain details of the services provided. In addition, the approved supplementary budget for advertising and publicity was an amount of Kshs.500,000 resulting to excess expenditure of Kshs.2,199,235.

- ii. Review of payment voucher no.863988 amounting to Kshs.2,998,500 for event management and logistical support for the County Public Stakeholder Feedback revealed that the tender was awarded using request for proposal. However, review of minutes of evaluation committee held on 1 February, 2024, indicated that the committee did not carry out the preliminary and financial evaluations as per Regulation 74(1) of the Public Procurement and Asset Disposal Regulations, 2020. The basis of the professional opinion and recommendations to the Accounting Officer of February, 2024 could not be confirmed. Further, no documentary evidence to show appointment of evaluation committee and market survey were provided for audit.
- iii. During the year under review, Management made a payment amounting to Kshs.2,998,780 for provision of catering services during the World Food Day and World Rabies Day. However, the evaluation report and the invoices were dated 10 August, 2023 and 30 August, 2023 respectively, while the requisition to procure was dated 7 September, 2023. The records suggested that due process was not followed in the procurement as requisition to procure came after the delivery of the services contrary to Regulation 71(1) of the Public Procurement and Asset Disposal Regulations, 2020. Further, documentary evidence to confirm receipt of goods and services including the inspection and acceptance report in accordance with Section 48 of the Public Procurement and Assets Disposal Act, 2015 were not provided.
- iv. Management paid an amount of Kshs.2,996,800 for inspectorate uniforms and an amount of Kshs.2,307,424 for office stationery supplies. However, both deliveries were made beyond thirty (30) days after issuance of Local Purchase Orders, contrary to the requirements of Regulation 52(1) of the Public Finance Management (County Governments) Regulations, 2015. Further the uniform supplier was not among registered suppliers.

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

901. Procurement Using Un-Prequalified Suppliers

The statement of receipts and payments reflects use of goods and services totalling Kshs.1,179,828,217 as disclosed in Note 3 to the financial statements. Included in the amount is rental of produced assets expenditure of Kshs.23,228,672 out of which, an amount of Kshs.1,999,790 was incurred in respect of hiring of excavator machine for Miriu Ogenga Stream-Kabonyo. Review of procurement documents revealed that the firm was not prequalified under the category. This was contrary to Section 106(2) of the Public Procurement and Asset Disposal Act, 2015, which require the accounting officer to give the request for quotations to persons that are registered by the procuring entity. Further, there was no evidence that the works were registered with National Construction Authority (NCA). This was contrary to Regulation 17(1) of the National Construction Authority Regulations, 2014 which requires that all construction works,

contracts or projects either in the public or private sector to be registered with the Authority.

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

902. Lack of Market Survey Reports

Management entered into contracts totalling Kshs.1,499,045 for the supply and delivery of tyres. However, no evidence was provided to demonstrate that a market survey was conducted to confirm that the offers were at prevailing market prices, contrary to Regulation 90(1)(d)(ii) of the Public Procurement and Asset Disposal Regulations, 2020, which requires accounting officers to ensure offers are at prevailing market prices before entering into contracts.

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

903. Delay in Execution of Consultancy Services on HR Manual

Review of procurement and payment records revealed that the County Executive contracted consultancy services for reviewing the Kisumu County HR Policies and Procedures Manual, 2015, at a cost of Kshs.2,950,000 on 14 September, 2023. However, the final document was not delivered within the three (3) month contract period, no contract extension was approved as required by Section 139(2) of the Public Procurement and Asset Disposal Act, 2015 and there was no evidence that the consultant's qualifications were considered in the tender evaluation, while key approvals and progress reports were not provided.

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

904. Delay in Execution of Consultancy Services on Training Policy

The County Executive contracted consultancy services for a training needs analysis at a cost of Kshs.2,920,000 on 4 September, 2023. However, the full payment was made despite the contract expiring without renewal or extension, contrary to Section 139(2) of the Public Procurement and Asset Disposal Act, 2015. Further, no approved policy document, key approvals or progress reports were provided for audit. In addition, no evidence that due diligence on the lead consultant's qualifications was done and were not provided for audit.

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

905. Unsupported Procurement of Proposed Completion of Pap Konam Agriculture Training College

Management entered into contracts for the construction of Konam Agriculture Training College, Phase I at a cost of Kshs.17,617,607 and Phase II at a cost of Kshs.39,869,732 totalling Kshs.57,487,339. However, tender advertisement, tender security, tender evaluation minutes, professional opinion, performance bond, acceptance offer, inspection and acceptance reports, joint measurements and interim or completion certificates issued by the inspection and acceptance committee and project implementation committee reports were not provided for audit upon several requests.

In the circumstances, value for money on the project amounting to Kshs.57,487,339 spent on the project could not be confirmed.

906. Irregular Procurement of Energy Efficient Streetlights and High Masts

Management entered into a contract for the supply, installation, testing and commissioning of energy efficient streetlights and high mast in Maseno and Kombewa in March, 2024 at a contract sum of Kshs.7,697,915. However, review of the tendering process revealed that the bid was irregularly awarded to a firm who did not satisfy the mandatory requirement as indicated in the evaluation reports. The winning bidder did not provide bid bond as required by the evaluation criteria which was contrary to Section 80(2) of the Public Procurement Assets and Disposal Act, 2015, which requires that the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents.

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

907. Irregular Procurement from Service Providers

Review of records revealed that the County Executive awarded a travel agency and air ticketing contracts to five (5) service providers from the list of ten (10) registered or pre-qualified suppliers. However, it was noted that out of the payments totalling Kshs.44,570,543, one (1) firm was awarded contracts totalling Kshs.39,037,353 or 88% across the County Executive departments in the year under review. This was contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the accounting officer to ensure a fair and equitable rotation amongst the persons in the list of registered suppliers. No justifiable reason was given to show why the Management preferred to award contracts to only the five (5) suppliers.

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

908. Unsupported Framework Agreements

Review of procurement records revealed that Management entered into a contract totalling Kshs.29,702,592 for the supply and delivery of medical items through framework agreement. However, no documentary evidence was provided to show that Management prepared value for money assessment reports as required by Section 114(2) of Public Procurement and Asset Disposal Act, 2015 or that Management prepared and submitted to the Accounting Officer with a copy to the Internal Auditor quarterly reports detailing analysis of the items procured through framework agreements as required by Section 114(6) of Public Procurement and Asset Disposal Act, 2015. Further, no documentary evidence was provided to show that the Accounting Officer reported the contracts awarded to Public Procurement Regulatory Authority as required in Section 138(2) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, value for money and competitiveness in the procurement process valued at Kshs.29,702,592 could not be confirmed.

909. Poor Contracts Administration

The Department of Energy, Infrastructure and Public Works entered into various contracts with different contractors. The contract agreements were signed on 30 March, 2023 for a contract period of twelve (12) weeks. However, physical verification in the month of September, 2024 and the project implementation status reports revealed the following:

- i. Review of twenty-seven (27) sampled projects revealed that they remained incomplete despite the lapse of the project duration and no document was provided for audit in respect of the extension of the project completion period. This was contrary to Section 88(2) of the Public Procurement and Asset Disposal Act, 2015 which states that the accounting officer of a procuring entity shall give in writing notice of an extension under subsection (1) to each person who submitted a tender.
- ii. Further, the contractors' performance bonds had expired and there was no evidence that they had been renewed.
- iii. In addition, the contractors who were not on site and failed to carry out the works as per the revised work plans Management had initiated the process of terminating the contracts by issuing default notices to the contractors on 9 November, 2023 as provided by Section 151(2)(a)(g) of the Public Procurement and Asset Disposal Act, 2015.
- iv. Similarly, there was disparity between completion levels as per the status report and the actual works carried as at the time of audit.

In the circumstances, value for money invested in the twenty-seven (27) sampled projects could not be confirmed.

910. Unutilized Idle Health Facilities

During the year under review, Management awarded contracts for proposed construction to completion of Dago Kotiende and Kowino Maternity Unit and rehabilitation at the Chulaimbo Sub-County Hospital at a cost of Kshs.10,880,291. Review of the projects indicated that the works were done as per the bill of quantities. However, physical verification in the month of September, 2024 revealed that the facilities were complete but remained idle. Further, there was evidence of vandalization of electrical works in the Hospital and the compounds were in a state of neglect.

In the circumstances, value for money on the expenditure amounting to Kshs.10,880,291 incurred on the proposed health facilities could not be confirmed.

911. Delay in Implementation of Contracts

Review of records provided revealed that the County Executive entered into eleven (11) contracts on various dates. However, there was no evidence that the Project Management Committee held any site meetings to hand over the site and/or assess the implementation of the projects. The Management did not give satisfactory explanation for delays in implementation of the contracts contrary to Regulation 33 of

the Public Procurement and Asset Disposal Regulations, 2020 which states that a procuring entity shall establish a procurement function which shall monitor contract management by user departments to ensure implementation of contracts in accordance with the terms and conditions of the contracts.

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

912. Late Commitment for Supply of Goods and Services

Procurement records provided for audit indicated that expenditure commitments or contracts totalling to Kshs.93,006,730 were made after 31 May, 2024 without the written approval of the Accounting Officer. This was contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 that requires all commitments for supply of goods or services to be done not later than 31 May each year, except with the express approval of the Accounting Officer in writing.

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

913. Irregular Termination of Contracts

During the year under review, the Management terminated contracts under the Department of Energy, Infrastructure and Public Works due to non-performance by the contractors. However, it was noted that the contracts were not terminated within reasonable time after the lapse of the contract period stipulated in the contract agreement, and there was no evidence of legal advice sought from the County Attorney or a designated legal officer within the County Executive. Further, the contracts were terminated before the expiry of the dates indicated in the default notice, and contract termination was initiated by the Accounting Officer contrary to Regulations 141 of the Public Procurement and Asset Disposal Regulations, 2020.

In addition, there was no implementation committee that gave the recommendations for the termination and no report was written to Authority within fourteen (14) days as stipulated in Section 63(2) and (3) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, value for money obtained from the project could not be confirmed.

914. Irregularities in Automation of County Revenue Management System

During the year under review, Management awarded a tender for supply, delivery, design, development, installation, deployment, testing, commissioning and maintenance of fully automated County Revenue Management System at a contract sum of Kshs.49,556,676 on 31 October, 2023. Review of the payment voucher and supporting documents revealed the following anomalies:

- i. Clause 10 of the special contract terms required that the vendor should provide support and maintenance of the system for a period of three (3) years. However, a comprehensive service level agreement and annual maintenance contract had not been approved as at the time of the audit in September, 2024.

- ii. Clause 11 to the contract on hardware provision and maintenance stated that supplier was required to provide four hundred (400) branded android smart phones. However, review of the delivery notes revealed that three hundred and eighty-five (385) smart phones and two (2) tablets were delivered. It is not clear and Management has not explained the variation of the contract deliverables.
- iii. Review of clause 8.1 to the contract (delivery and documentation), revealed that Phase III on structured revenue streams advertisement, hire of County Executive's assets, land rates and physical planning integration to 3rd party systems was yet to be implemented five (5) months after the lapse of the contract period. There was no indication of approval for any extension given the delayed completion of the project contrary to Regulation 139(2)(a) of the Public Procurement and Assets Disposal Regulations, 2020 requiring justification from the tenderer for extension of contract period and approval from the accounting officer for the extension.

In the circumstances, value for money invested in the Automated County Revenue Management System could not be confirmed.

915. Irregularities in Human Resource Management Practices

915.1 Irregular Promotion of County Executive Staff

Review of the payroll records revealed thirty-nine (39) employees of the County Executive were promoted by two (2) or more job groups within a year. The basis of the promotions was not supported by documentary evidence such as advertisements, a list of applicants, interview minutes and a budget for the promotions. Although the Management explained that the promotions were due to long stagnation, no proper justification was given to support of the movement in job groups. This was contrary to Section B.25 of the Public Service Commission Human Resource Policy, 2016 which requires promotions in the public service to be based on qualifications and other requirements for appointment as stipulated in the career progression guidelines.

915.2 Payment of Salaries Outside the Integrated Payroll and Personnel Database

Review of personnel records indicated that the County Executive had two (2) payroll systems in operation – a manual payroll and an Integrated Payroll and Personnel Database (IPPD) system. The supporting documents revealed salary payments amounting to Kshs.210,009,458 were processed through the manual payroll which is prone to errors. Although the Management attributed this to lack of payroll numbers, inability to define some of the cadre of staff in the system and the temporary nature of engagement of some of the employees. This was contrary to The National Treasury Circular Ref. TNT/IFMIS/INT/100 'A' (60) dated 18 May, 2021 which requires payroll to be managed through the IPPD system.

915.3 Retention of Staff Beyond Mandatory Retirement Age

During the audit review, examination of the payroll provided for audit revealed that seventy-nine (79) employees who had attained the retirement age of 60 years were still appearing in the June, 2024 payroll. This was contrary to gazette Notice Ref No.OP.CAB.2/7A of March, 2009 and Section D. 21 of Human Resource Policies

and Procedures Manual for the Public Service, 2016. The policy 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. Management did not provide explanation for the anomaly.

915.4 Non-Compliance with One-Third of Basic Salary Rule

Review of the County Executive payroll for the year indicated that in the month of June, 2024, the net salaries for four hundred and forty-nine (449) officers totalling Kshs.3,831,569 were less than the one-third of their respective basic pay. This was contrary to Section C(3) Human Resource Policies and Procedures Manual for the Public Service May, 2016 which requires that public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries. No explanations were provided for the anomaly.

915.5 Employees on Acting Capacity Beyond Stipulated Period

Review of the human resource records provided revealed that thirteen (13) members of staff had been appointed in acting capacity. The members of staff had acted for more than six (6) months. This was in contravention of Paragraph C.14(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which requires that when an officer is eligible for appointment to a higher post and is called upon to act in that post pending advertisement of the post, he is eligible for payment of acting allowance at the rate of twenty percent (20%) of his substantive basic salary and that acting allowance will not be payable to an officer for more than six (6) months.

915.6 Non-Compliance with National Cohesion and Integration Act, 2008

Review of the Integrated Payroll and Personnel Database (IPPD) records for the month of June, 2024 revealed that the County Executive had a workforce of four thousand six hundred and thirty-two (4,632). However, out of this number, four thousand and fifty-six (4,056) were members of the dominant community. This represents 87% of the total workforce contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 that requires public establishment to seek to represent the diversity of the people of Kenya in employment of staff. Further, the County Executive recruited three hundred and ninety-five (395) employees during the year under review, out of which three hundred and ninety (390) or 99% were from the dominant ethnic community.

915.7 Unsupported Staff Recruitment

The County Public Service Board advertised for various positions that were filled in the current year under review in the Agriculture and Health Departments. However, review of the approved staff establishment revealed that the optimum staffing level allowed was exceeded by forty-six (46) employees. This was contrary to Section A.15 of the Human Resource Policies and Procedures Manual for Public Service, May, 2016, which states that the functions of Ministerial Human Resource Management Advisory Committees (MHRMAC) entail making recommendations to the Authorized Officer regarding: - inter alia (viii) establishment and complement control. Further,

documentary evidence for the recruitment process for on-boarding forty-six (46) city casual workers was not provided for audit.

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

916. Irregularities in Imprests Management

The statement of assets and liabilities reflects outstanding imprests and advances balance of Kshs.5,151,666 which was issued during the year under review. Review of records revealed that as at the time of the audit the imprests which ought to have been surrendered had not been surrendered. This was contrary to Regulation 93(5) and (8) of the Public Finance Management (County Governments) Regulations, 2015 which requires that imprest be surrendered or accounted for within seven (7) working days after returning to duty station and prohibits issue of new imprests to officers with outstanding imprests. Further, there were instances where staff members were issued with multiple imprests totalling to Kshs.2,005,600. This was contrary to Regulation 93(4)(b) and Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires that before issuing temporary imprests, the Accounting Officer shall ensure that the applicant has no outstanding imprests.

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

917. Overdrawn Salary Bank Account

Review of bank records revealed that the County Executive Salary Account had been overdrawn by an amount of Kshs.3,004,716,885 during the year under review. However, Management did not provide details and authorization of any agreement between the County Executive and the Bank for the overdraft facility. This was contrary to Regulation 82(7) of the Public Finance Management (County Governments) Regulations, 2015 which states that no official County Government bank account shall be overdrawn, nor shall any advance or loan be obtained from a bank account for official purposes beyond the limit authorized by the County Treasury in line with Section 119(4) of the Public Finance Management Act, 2012.

Further, the overdraft amount of Kshs.3,004,716,885 was over and above the required threshold of Kshs.484,595,306 being five percent (5%) on the most recent County Government revenue of Kshs.9,691,906,112. This was contrary to Section 107(3) of the Public Finance Management Act, 2012 which states that short term borrowing shall be restricted to management of cash flows and shall not exceed five percent (5%) of the most recent audited County Government revenue.

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

918. Unauthorized Inter-Accounts Transfers

The statement of assets and liabilities and as disclosed in Note 10 to the financial statements reflects deposits and retentions balance of Kshs.9,495,726. Review of the deposit bank statement revealed that the Management transferred an amount of Kshs.7,455,150 to recurrent account. However, there was no authorization for the inter-account transfers contrary to Regulation 47(1)(e) of the Public Finance

Management (County Governments) Regulations, 2015 which states that allocations earmarked by the County Treasury for a specific purpose may not be used for other purposes, except with treasury's approval.

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

919. Irregularities in Construction of Governor's Residence

Management awarded a contract for the construction of Governor's residence at a cost of Kshs.42,510,290 on 3 February, 2023 for a period of eight (8) months. Project verification conducted in September, 2024 revealed that the Governor's residential building under phase one had been completed and occupied. However, the completion certificate and the inspection and acceptance report were not provided for audit. Further, the Management awarded another company a contract of Kshs.48,483,827 in respect of phase II resulting in aggregated total cost for the project of Kshs.90,994,117. This was contrary to the Salaries and Remuneration Commission (SRC) issued Circular No. SRC/TS/COG/6/61/48 VOL11(64) dated 20 May, 2019 on cost limits for Governor's residences set out at Kshs.45,000,000.

In the circumstances, Management was in breach of the Salaries and Remuneration Commission (SRC) Circular.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

920. Management of Hired Car Services

Review of payment vouchers provided revealed that an amount of Kshs.4,169,800 was paid to a firm in respect of car hire for County Executive visitors for various activities. However, there was no documentary evidence to confirm that the transport officer certified and confirmed that the departments did not have enough vehicles to justify hiring of the vehicles. Further, no evidence was provided for audit to confirm if the County Executive has a transport policy guideline on management of transport.

In the circumstances, the effectiveness of internal controls over management of hired car services could not be confirmed.

921. Weaknesses in Internal Audit Function

Review of the internal audit function and governance revealed the following weaknesses:-

- i. During the year under review, the County Executive had an Internal Audit Function in place with a total staff of seven (7) officers. Review of the approved staff establishment of the County Executive revealed that Internal Audit Department was supposed to be staffed with twenty (20) officers. This resulted to understaffing of thirteen (13) officers contrary to Regulation 155(2)(a) of the Public Finance Management (County Governments) Regulations, 2015, which states that an Accounting Officer shall ensure that the organizational structure of the internal

audit unit facilitates the entity to accomplish its internal audit responsibilities. Information obtained from the Management indicated that the officers carrying out duties of the internal audit were employed as ward administrators and deployed to the unit casting doubt on the effectiveness of the unit.

- ii. Further, the Internal Audit Function submitted to Management thirteen (13) audit reports on various Departments and Sections outlining the recommendations to be effected by the Management. However, Management has not provided evidence of implementation of the audit recommendations.
- iii. In addition, it was noted that the internal audit department lacked functional independence since the internal audit was not functionally reporting to the Audit Committee in place. This was contrary to Regulation 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the head of the internal audit unit in a County Government entity to enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.
- iv. Further, contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015, the Committee did not publish an annual report on the review of the independence, performance and competence of the Internal Audit Unit.

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

922. Lack of Risk Management Policy

The Management did not have an approved Risk Management Policy and therefore, had no approved processes and guidelines on how to mitigate operational, legal and financial risks as stipulated under Regulation, 158 of the Public Finance Management (County Governments) Regulations, 2015. Further, contrary to Regulation 158(1) of the Public Finance Management (County Governments) Regulations, 2015 no risk assessment activity was carried out during the year. Therefore, Management lacked means to identify operational and other risks faced by the County Executive, to assess the likelihood of their occurrence and significance and to establish means to mitigate their possible effects.

In the circumstances, the effectiveness of the County Executive's internal controls, risk management and governance processes could not be confirmed.

923. Weakness in Human Resource Management Practices

923.1 Lack of an Annual Recruitment Plan

During the audit review, it was noted that the Human Resource Department did not prepare and submit the recruitment plans to the County Public Services Board contrary to Section B(2)(1) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which requires every Ministry or State Department to prepare Human Resource Plans to support achievement of goals and objectives in

their strategic plans and that the plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs.

923.2 Lack of Human Resource Plans and Policies

Review of human resources records revealed that the County Executive lacked approved key policy manuals for Human Resource Management, including a customized Scheme of Service, Career Progression Guidelines and Human Resource Plans, making it impossible to confirm the appropriateness of the current staffing level for achieving the County Executive's strategic objectives. This was contrary to the Human Resource Policies and Procedures Manual for the Public Service, 2016, which requires departments to prepare human resource plans. Further, staff promotions during the year were based solely on qualifications, as the County Executive had not developed career progression guidelines. Further, the County Executive did not maintain a skills inventory for its employees, hindering effective training, recruitment and succession management decisions.

In the circumstances, the existence of an effective control mechanisms on human resource management could not be confirmed.

COUNTY EXECUTIVE OF HOMA BAY – NO.43

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

924. Unexplained Variance in Transfers from County Revenue Fund

The statement of receipts and payments reflects transfers from County Revenue Fund (CRF) amount of Kshs.7,920,960,720 as disclosed in Note 1 to the financial statements. However, the County Revenue Fund statement of receipts and payments for the financial year reflects transfers to the County Executive amount of Kshs.6,921,646,432. The resultant variance of Kshs.999,314,288 was not reconciled or explained.

In the circumstances, the accuracy and completeness of the transfers from the County Revenue Fund amounting to Kshs.7,920,960,720 could not be confirmed.

925. Misclassification of Expenditure in Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.808,337,760, and as disclosed in Note 4 to the financial statements which includes contracted professional services amount of Kshs.53,753,975. However, expenditures totalling Kshs.7,305,000 comprising Kshs.1,505,000 and Kshs.5,800,000 spent on rent and purchase of a motor vehicle were misclassified under contracted professional services instead of rentals of produced assets and purchase of motor vehicles respectively.

In the circumstances, the classification, completeness and accuracy of the contracted professional services amounting to Kshs.53,753,975 could not be confirmed.

926. Unsupported Payments on Non-Practicing Allowances

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,205,707,306, as disclosed in Note 3 to the financial statements. The amount includes personal allowances paid as part of salary amount of Kshs.129,817,300, out of which an amount of Kshs.2,192,000 was paid to fifty-eight (58) officers in the month of June, 2024 as non-practicing allowances. However, Management did not provide supporting documents to confirm staff eligibility for the allowances.

In the circumstances, the accuracy and completeness of compensation of employees expenditure of Kshs.2,192,000 could not be confirmed.

Emphasis of Matter

927. Budgetary Control and Performance

The summary statement of appropriation: recurrent and development combined reflects final receipts budget and actual on comparable basis amounts of Kshs.9,962,208,395 and Kshs.7,967,540,682 respectively, resulting in under-funding of Kshs.1,994,667,713, or 20% of the budget.

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

928. Pending Accounts Payable

Note 19.1 under other important disclosures and Annex 3 to the financial statements reflects pending accounts payable balance of Kshs.955,548,525 in respect of accounts payables brought forward from the year 2022-2023. During the year under review, the County Executive incurred pending bills of Kshs.1,098,628,645 bringing the total pending bills for the year to Kshs.2,054,177,170, out of which, Management settled an amount of Kshs.861,909,354 leaving a balance of Kshs.1,192,267,816. This is indicative of the County Executive's failure to settle the pending bills as a first charge to the budget contrary to the requirement of Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015.

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

My opinion is not modified in respect of these matters.

Other Matter

929. Unresolved Prior Year Matters

In the report of the Auditor-General for the financial year 2022/2023, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has indicated that not all the prior year audit issues were resolved as at 30 June, 2022.

930. County Preparedness to Transition to Accrual Basis of Accounting

The County Executive had not implemented the prerequisites to accrual accounting, except for training two (2) staff members in the Finance Department. Further, The National Treasury had not configured the Integrated Financial Management Information System (IFMIS) to support accrual accounting contrary to Paragraph 1.4 of the Guidelines on Transition from Cash Basis to Accrual Basis of Accounting by Ministries, Departments, Agencies (MDAs) and County Governments which states that on 7 March, 2024 the Cabinet approved the transition from cash basis of accounting to accrual basis of accounting with effect from 1 July, 2024 and that the transition is to be undertaken over three years.

This is indicative of the County Executive lack of preparedness to transition to IPSAS accrual basis of accounting and reporting in the financial year ending 30 June, 2025.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

931. Irregularities in Human Resource Management Practices

The statement of receipts and payments, and as disclosed in Note 3 to the financial statements, reflects an amount of Kshs.4,205,707,306 in respect of compensation of employees. The following unsatisfactory matters were however noted:

931.1 Employees on Acting Capacity for Prolonged Durations

Analysis of the payroll revealed that a total of twenty-seven (27) employees were in acting capacity for periods exceeding six (6) months. This was contrary to Section C.14(1) of the Public Service Commission Human Resource Policies and Procedures Manual for the Public Service, 2016, which states that an employee who has successfully and continuously acted in a vacant position for a period of six (6) months and meets the job requirements will be deemed to have been confirmed in that position.

931.2 Non-Adherence to One-Third of Basic Salary Rule

Analysis of the payroll of permanent staff revealed that eight hundred and thirty-one (831) staff in July, 2023, six hundred and twenty-five (625) in December, 2023, eight hundred and thirty-one (831) in March, 2024 and eight hundred and forty-seven (847) in June, 2024 received net salaries that were less than one-third of their respective basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007, which states that the total amount of deductions from the wages of an employee shall not exceed two third (2/3) of such wages.

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

931.3 Non-Compliance with the County Governments Act, 2012

During the year under review, the County Executive recruited ninety-one (91) employees. However, eighty-four (84) of the employees representing 92% of the new employees were from the dominant community while 8% were from the other communities. This was contrary to Section 65(1)(e) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

932. Irregularities in the Procurement and Award of Contracts

932.1 Payment for Undelivered Consultancy Services - Payroll and Personnel Census

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects expenditure amount of Kshs.808,337,760 in respect of use of goods and services which further includes an amount of Kshs.53,753,975 in respect

of contracted professional services. Included in the contracted professional services expenditure is an amount of Kshs.7,700,000 being payment to a firm in respect of part payment of the contract sum of Kshs.32,457,380 relating to a payroll and personnel census audit of County Public Service. The contract was awarded in the financial year 2022-2023.

According to clause 14.1 of the special conditions of the contract, the contract was to run for twelve (12) weeks upon signing of the agreement. Further, clause 40.2 of the special conditions of the contract, required 30% of the contract sum to be paid upon submission of the inception report, 40% upon submission of the draft report and the remaining 30% to be paid upon submission of a consolidated final report.

However, review of the expenditure confirmed that the contract period had elapsed and there was no evidence of extension of the contract period. In addition, Management did not provide any output inform of a report submitted by the consultant as evidence of work done.

932.2 Unauthorized Budget Reallocations

During the year under review, Management undertook unauthorized reallocation of budgets by charging the inappropriate budget codes as detailed below:

S/No.	PV No.	Description	Amount (Kshs)
1	29306	Payment to Department of Education and ICT	1,000,000
2	29573	Homa Bay County Salaries	1,477,000
3	29573	Homa Bay County Salaries	6,055,700
4	29330	Payments for Supply of Laptop	520,000
		Total	9,052,700

Although Management has indicated the mispostings have been regularized by passing Journal vouchers, thus was irregular and contrary to Section 154(2) of the Public Finance Management Act, 2012 that requires an accounting officer for a county government entity may reallocate funds between programs, or between Sub-Votes, in the budget for a financial year, but only if a request for the reallocation has been made to the County Treasury explaining the reasons for the reallocation and the County Treasury has approved the request; and the total of all reallocations made to or from a program or Sub-Vote does not exceed ten percent (10%) of the total expenditure approved for that program or Sub-Vote for that year.

932.3 Delayed Proposed Construction of County Aggregation and Industrial Park

The statement of receipts and payments reflects expenditure amount of Kshs.333,198,009 on other grants and transfers as disclosed in Note 9 to the financial statements which includes an amount of Kshs.36,194,302 in respect of Homa Bay County Aggregation and Industrial Park.

During the year under review, the County Executive entered into a contract with a Joint Venture of three companies to construct County Aggregation and Industrial Park at a contract sum of Kshs.498,338,151. This was preceded by an intergovernmental agreement between the National Government through the Ministry of Investments,

Trade and Industry and the County Executive. Under this framework, the National Government was to contribute an amount of Kshs.250,000,000 and the County Executive amount of Kshs.250,000,000, which the County Executive allocated an amount of Kshs.100,000,000 in the 2022/2023 and an amount of Kshs.150,000,000 in the 2023/2024 financial year.

Review of documents and the project inspection conducted on 5 September, 2024 revealed the following:

- i. The contract was to run for seven (7) months to 6 April, 2024, with an extension of the contract period of one hundred and eighty (180) days being granted to 6 October, 2024. The basis of the extension was adverse climatic conditions (floods) which had led to work stoppages in November 2023. On 31 July, 2024 the contractor sought a second extension of eighty-eight (88) calendar days up to 9 January, 2025. The extension was however, granted to 13 October, 2024. Field inspection conducted on 5 September, 2024, one month before the expiry of the contract revealed the following status on key components in the priced bills of quantities:

Item	Current Status as per Audit Verification on 4 September, 2024
Construction of four (4) Value addition ware houses	Digging of column bases was in progress. The construction was approximately at 8% based on engineers estimate. The construction had been impacted by flooding at the foundation level and setting out of column bases.
Construction of two (2) Aggregation warehouses @ 1,000 M/Square	Digging of column bases was in progress. The construction was approximately at 8% based on engineers estimate. The construction had been impacted by flooding at the foundation level.
Construction of two (2) cold storage warehouses	Not started
Construction of borehole and pump house	Borehole complete but pump house not done.
Completion of boundary wall	Complete
Construction of office block, power house and ablution block.	Not started.

- ii. Out of the National Government's agreed contribution amount of Kshs.250,000,000 to the project, an amount of Kshs.62,500,000 had been received during the year under review. Part of these funds were used to settle the first certificate of Kshs.40,212,881 dated 7 June, 2024.
- iii. The project structural and architectural designs are generic ones from the National Government and formed the basis of the procurement decisions (tender sum). However, due to the topography and nature of soil structure, the structural drawings have had to be revised at the County level. This is likely to have cost escalations on the project which is yet to be determined. This impact was also

cited by the contractor in a letter dated 31 July, 2024 while requesting for extension of time.

932.4 Unutilized Water in Sombro Earth Dam

The County Executive awarded the contract for the rehabilitation of Kapana - Sombo Earth dam in Kanjira and Korokoth Kataa Locations, at a contract price of Kshs.22,894,018 on 28 October, 2022. The project's targeted completion date was 30 December, 2022. During the year under review, the contractor was paid an amount of Kshs.6,240,976 being the final payment and retention money. Physical inspection carried out on 5 September, 2024 revealed that although the project was complete and in use, the dam had a lot of idle water which ought to have been distributed to the community to realize the optimal utilization of invested funds.

932.5 Idle Projects - Solar Pump Kits and Farm Ponds

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects an amount of Kshs.333,198,009 in respect of other grants and transfers, out of which an amount of Kshs.119,390,851 was transferred to the National Agricultural and Rural Inclusive Growth Project (NARIGP).

During the year under review, the County Executive, through the NARIGP purchased fifty (50) solar pumps for an amount of Kshs.5,600,000 and constructed twenty-three (23) farm ponds for an amount of Kshs.1,050,000 to be used for irrigation by the farmers in various sustainable land management groups. The supply, delivery and construction were completed in October, 2023. However, physical inspection conducted on 5 September, 2024, revealed that the project was idle as the County Executive had not purchased dam liners which are essential components before the equipment can be used. Further, Management did not give a timeline for the purchase of the dam liners for the project to be put into use.

932.6 Demolition of the Arujo Animal Feeds Milling Plant (Structure) in Arunjo Ward

As previously reported in 2021/2022, the Department of Trade and Industrialization awarded a contract to a local contractor for the construction and completion of an animal feeds factory and a godown at a contract sum of Kshs.45,160,064 in the financial year 2014/2015.

The contract period was for eight (8) months with an initial expected completion date of 4 January, 2016. Review of records revealed that the contractor had cumulatively been paid an amount of Kshs.36,712,000 as at 30 June, 2022 before termination. The contract was re-tendered and awarded to a new contractor at a contract sum of Kshs.24,239,267 on 24 May, 2022. However, physical inspection of the structure revealed that the project was incomplete and had stalled at the lintel level.

Further review of documents confirmed that, Management resolved to convert the land under Arujo Animal Feeds and utilize it to establish the County Executive's Headquarters. The main reason given was the resumption and expected expansion of the Kabunde Airport, where having an animal feed factor will be a flight risk due to flying birds.

Inspection of the project on 9 September, 2024 revealed that the animal feed building was demolished and the construction of the County Headquarters was underway. However, the following anomalies were noted on the project:

- (i) The County Executive chose demolition method as a way of disposal which resulted in loss of value of the capital asset otherwise than by way of putting it into other usage.
- (ii) Evidence of whether the County Executive Committee Member for Trade published the process and procedures for the demolition of the project in accordance with Regulation 7 of the Public Finance Management (County Governments) Regulations, 2015.
- (iii) The existence and location of machinery and equipment valued at Kshs.74,212,711 as detailed below could not be confirmed:

Particulars	Date	Amount (Kshs.)
Delivering the Machines to Homa Bay County		18,430,825
Installation and Commissioning		6,143,608
First Payment	24/12/2014	1,266,726
Second Payment	04/03/2015	10,000,000
Third Payment	28/05/2015	3,127,414
Fourth Payment	10/07/2020	15,244,138
Fifth Payment	06/08/2021	20,000,000
	Total	74,212,711

932.7 Irregular Procurement of Construction of JNC B2 - Lake Front Access Road Phase 1 and 2

The statement of receipts and payments reflects an amount of Kshs.1,197,293,186 in respect to acquisition of assets, which as disclosed in Note 7 to the financial statements, includes an amount of Kshs.263,654,743 spent on the construction of major roads, access roads and bridges.

During the year under review, the County Executive invited tenders for upgrade to pavement standards of JNC B2 - Lakefront Access Road Phase 1 and 2 on 15 December, 2023 through restricted tendering. The two (2) tenders were opened on 22 December, 2023. Ten (10) firms submitted bids for Phase 1, while nine (9) bids were received for Phase 2. The tender evaluation was conducted and the report was issued on 27 December, 2023 recommending that a firm to be awarded the Phase 1 contract at a price of Kshs.9,240,970.12 and another be awarded the Phase 2 contract at a price of Kshs.7,031,737.56. Both tenders were awarded on 12 January, 2024 and payments were effected on 27 June, 2024.

However, it was noted that the works were not complex and not specialized in nature as envisaged under Sub-section 102 (a) of the Public Procurement and Asset Disposal Act, 2015. There was also no time constraint as envisaged under Sub-section (b) and no evidence was provided to confirm that only a few suppliers of the works were available to warrant use of restricted tendering method.

In the circumstances, the Project may not be delivered within the estimated timelines and value for money on the expenditure on the investment on the Projects could not be confirmed and Management was in breach of the law.

933. Incomplete Construction of Buildings

Note 7 to the financial statements reflects expenditure on the construction of buildings – non-residential amount of Kshs.200,230,130. However, the following unsatisfactory observations were made:

933.1 Incomplete Landscaping and Drive Way Works at Kigoto Milling Plant

As previously reported, an expenditure amount of Kshs.6,329,138 was incurred on landscaping and driveway works at Kigoto Milling Plant. However, physical inspection conducted on 30 October, 2024 revealed that the works were incomplete and the surface water drainage and vegetation works valued at Kshs.710,230 were not done while the contractor was not on site.

933.2 Incomplete Work at Kigoto Water Project

As previously reported, an amount of Kshs.4,503,017 was paid to a contractor for drilling and equipping of the borehole, installation of the underground water tank, installation of overhead water tank and water pump works at Kigoto at a contract sum of Kshs.7,382,054. However, physical inspection conducted on 30 October, 2024 revealed that the project was incomplete due to the non-installation of the solar system. Further, the four (4) water tanks each of ten thousand (10,000) litres, that were installed on the water tower were blown off due to lack of guard rails which were not placed to secure the water tanks.

933.3 Incomplete Fencing and Construction of Gate at Kigoto Maize Milling Plant

As previously reported, an amount of Kshs.4,728,786 was paid to a contractor for fencing and construction of gate at Kigoto Maize Milling Plant. Records provided for audit revealed that the contractor was further paid an amount of Kshs.3,455,067 vide payment dated 12 January, 2024. Further, examination of the supporting documents revealed that three (3) members of the Inspection and Acceptance Committee did not append their signatures to the report. In addition, physical inspection of the works on 30 October, 2024 revealed that the two (2) pedestrian gates and one sliding truck gates were not done, and the contractor was not on site.

933.4 Incomplete Works at Kigoto Maize Milling Plant

As previously reported, an amount of Kshs.3,523,481 was paid out of a contract sum of Kshs.4,979,700 for the construction of sentry house, changing rooms, generator room and general repairs at Kigoto Maize Milling Plant. However, physical inspection in October, 2024 revealed that the sentry house and main gate works were incomplete, and the contractor was not on site.

In the circumstances, value for money may not have been realized from the expenditure of Kshs.200,230,130 on the construction of non-residential buildings.

934. Non-Compliance with Fiscal Responsibility Principle on Development

The summary statement of appropriation: recurrent and development combined reflects total actual expenditure of Kshs.7,629,345,969, while the summary statement of appropriation: development indicates total actual expenditure of Kshs.1,922,220,129 representing 25% of the total expenditure. This was contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015, which stipulates that the county government actual expenditure on development shall be at least thirty percent (30%) in conformity with the requirement under Section 107(2)(a) of the Act.

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

935. Non-Compliance with the Fiscal Responsibility Principle on Wage Bill

The statements of receipts and payments reflects compensation of employees amount of Kshs.4,205,707,306, representing 53% of the County total revenue of Kshs.7,967,540,682. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015, which provides that the County Government expenditure on wages and benefits should not exceed thirty-five (35%) of the total county revenue.

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

936. Unsupported Payments on Legal Expenses

The statement of receipt and payments reflects an expenditure of Kshs.808,337,760 on use of goods and services as disclosed in Note 4 to the financial statements. Included in the expenditure is an amount of Kshs.53,753,975 for contracted professionals' services, out of which, an amount of Kshs.11,001,015 was paid as legal fees to various firms for representing the County Executive in various legal disputes or court cases during the year under review.

However, records obtained from the Homa Bay County Law Office indicate that there were three hundred and fifty (350) court cases against the County Executive some were still ongoing, and others still pending before the courts dating back to the year 2020. However, the details of the court cases such as the subject matter, case files, period taken to complete the case, fee notes and the financial implication such cases may have on the County Executive were not provided for audit. Further, all the three hundred and fifty (350) court cases and matters were being handled by external law firms even though the County Executive has a County Legal Unit with relevant human resources. No satisfactory explanation was given for outsourcing the legal services. In addition, it was not possible to confirm regularity of the status of the court cases or legal fee and the potential financial impact.

In the circumstances, the regularity of expenditure amounting to Kshs.11,001,015 on outsourced legal services could not be confirmed.

937. Non-Submission Municipalities' Financial Statements

The County Executive has four (4) established Municipalities of Mbita, Oyugis, Kendu Bay and Ndhiwa. However, the financial statements for all the municipalities for the 2022/2023 and 2023/2024 financial years were not prepared and submitted to the

Auditor-General for audit. This was contrary to Section 180(2) of the Public Finance Management Act, 2012, which requires that, at the end of each financial year, the accounting officer of the City or Municipality established by the Urban Areas and Cities Act, 2011 shall prepare financial statements in accordance with the standards and formats prescribed by the Public Sector Accounting Standards Board and the provisions of the Urban Areas and Cities Act, 2011.

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

938. Late Submission of Financial Statements for Sub-County Hospitals

The financial statements for four (4) Sub-County Hospitals of Kabondo, Ndhiwa, Rangwe and Tom Mboya Memorial Sub-County Hospital for the year ended 30 June, 2024 were submitted in December, 2024 to the Auditor-General for audit. This was contrary to Section 164(4)(a) of the Public Finance Management Act, 2012, which provides that within three months after the end of each financial year, the accounting officer for an entity shall submit the entity's financial statements to the Auditor-General.

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

939. Failure to Prepare Financial Statements for Financing Locally-Led Climate Action Program

During the year under review, the County Executive received funding under Financing Locally-Led Climate Action (FLLoCA) Program. However, the financial statements were not prepared and submitted for audit contrary to Section 164(4)(a) of the Public Finance Management Act, 2012, which provides that within three months after the end of each financial year, the accounting officer for an entity shall submit the entity's financial statements to the Auditor-General.

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

940. Failure to Submit of Climate Change Progress Reports

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects capital grants and transfers amount of Kshs.391,728,934 which further includes an amount of Kshs.109,113,464 in relation to Financing Locally-Led Climate Actions (FLLoCA) programme.

Review of documents provided for audit revealed that the County Executive had put in place a climate change action plan to guide the implementation of the Homa Bay County Climate Change Policy, 2021 and the Homa Bay County Climate Change Risk Assessment and Vulnerability Assessment Report, 2022. Among key elements of the Homa Bay Climate Change Policy is a requirement that the County Executive shall prepare Annual Climate Change Progress Reports and submit them to the County Assembly. However, Management did not prepare Annual Progress Reports and submit them to the County Assembly in line with the policy as at 30 June, 2024.

In the circumstances, Management was in breach of the Homa Bay Climate change policy.

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

Basis for Conclusion

941. Employees with Duplicate Bank Account Numbers

Review of the payrolls revealed that various officers shared bank accounts during the year under review; July, 2023 – four (4) officers, December, 2023 – twenty-two (22) officers, March, 2024 – fourteen (14) officers and June, 2024 – fourteen (14) officers. This was indicative of irregularities and internal control weaknesses over the payroll management processes.

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

942. Lack of Approved Organization Structure and Human Resource Management Instruments

During the year under review, the County Executive did not have in place an approved organizational structure, staff establishment and human resource policies.

In the absence of Organization structure and other human resource instruments, it was not possible to confirm the effectiveness of controls on human resource management.

943. Weaknesses in Engagement of Community Health Promoters

During the year under review, the County Executive engaged two thousand nine hundred and fifty-four (2,954) Community Health Promoters (CHPs) through the Department of Public Health to work as a link between the community and formal health facilities. This was under the formal arrangement between the National Government and County Governments. The County Government contributes an amount of Kshs.2,550 covering stipend (Kshs.2,000), NHIF (Kshs.500) and bank charges (Kshs.50). However, review of the engagement process revealed that the identification criteria for the CHPs were not structured in a formal way posing the risk of engaging incompetent and non-committed persons to the program.

Further, there was no evidence of the scope of duties and the management controls of the activities of the CHPs hence likelihood of not achieving the intended objective.

In the circumstances, the effectiveness of internal controls over the engagement of Community Health Promoters and their deliverables could not be confirmed.

944. Failure to Establish an Audit Committee

During the year under review, the County Executive had an Internal Audit Unit. However, an Audit Committee had not been established. Further, contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015, there were no published annual report on the review of the independence, performance, and competence of the Internal Audit Unit.

In the circumstances, the effectiveness of risk management and governance in the County Executive could not be confirmed.

945. Lack of Information Communication Technology Policy

As previously reported, review of Information Communication Technology (ICT) environment and its controls revealed that there was no ICT Policy in place to govern ICT environment. The Management had not approved draft ICT Policy to govern ICT environment and address areas of concern such as;

- i. Information Technology Governance to ensure ICT strategic committee is in place.
- ii. ICT security Management to ensure data confidentiality, integrity and availability and to ensure there is patch management process on all systems software's.
- iii. ICT Program change management to ensure that there is formally documented and approved processes to manage upgrades made to all information systems.
- iv. Physical access controls to ensure physical access to sensitive areas like server rooms, storage rooms and network rooms are properly controlled.
- v. Environmental control to cover environmental controls like fire suppression system, UPS and air conditioning systems especially in server rooms.
- vi. Logical access control to document and approve user management standards and procedures in the organization.

In the circumstances, the integrity, security and reliability of the County Executive's financial data including its Management Information System could not be confirmed.

946. Lack of an Assets Register

Annexure 4 to the financial statements reflects non-current assets with a historical cost balance of Kshs.8,797,568,719. However, review of records revealed the following anomalies:

- (i) Management did not maintain a fixed assets register in the prescribed format contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws. The register in place lacked identification or serial numbers, acquisition date, description of asset, location, class and cost of acquisition.
- (ii) The register of land and buildings did not have a record of each parcel of land and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, leasehold terms, maintenance contracts and other pertinent management details as required under Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015.

- (iii) Management did not report on assets taken over or inherited from all the defunct Local Authorities.
- (iv) Management had not established policies and procedures on assets management as required under Part XII of Public Finance Management (County Governments) Financial Regulations, 2015.
- (v) The assets were also not tagged for ease of identification and tracking.
- (vi) No evidence was provided indicating that the assets were regularly inspected to confirm existence, condition and location of the assets.

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

COUNTY EXECUTIVE OF MIGORI – NO.44

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

947. Unsupported Expenditure on Wages

The statement of receipts and payments reflects compensation of employees expenditure amount of Kshs.3,255,148,943 as disclosed in Note 2 to the financial statements. The amount includes basic wages for temporary employees amounting to Kshs.141,269,005. However, the letters of appointment for the temporary employees were not provided for audit review.

In the circumstances, the existence, accuracy and completeness of the basic wages for temporary employees amounting to Kshs.141,269,005 could not be confirmed.

948. Unsupported Legal Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,543,005,831 and as disclosed in Note 3 to the financial statements which includes other operating expenses amount of Kshs.152,175,180 out of which a total of Kshs.50,326,213 was utilized for payment for legal services. However, the fee notes provided for audit did not indicate the nature of work done for the amount claimed. In addition, no tabulation was provided to show how the fee notes conformed to the Advocates and Remuneration Order, 2014.

In the circumstances, the accuracy and completeness on legal services amounting to Kshs.50,326,213 could not be confirmed.

949. Land Acquired without Title Deed

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,968,670,681 and as disclosed in Note 7 to the financial statements includes acquisition of land amount of Kshs.23,305,870 out of which, an amount of Kshs.1,500,000 was incurred by the Department of Trade, Tourism Industrialization and Cooperative to purchase land. However, the title deed was not provided for audit.

In the circumstances, the existence, completeness and ownership of the acquired land amounting to Kshs.1,500,000 could not be confirmed.

Emphasis of Matter

950. 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 amounts of Kshs.11,473,037,521 and Kshs.8,667,087,798 respectively, resulting in an under-funding of Kshs.2,805,949,723 or 24% of the budget. However, Management spent a total of Kshs.8,652,021,734 out of actual receipts amount of

Kshs.8,667,087,798 resulting to under-utilization of Kshs.15,066,004 of actual receipts.

In the circumstances, the under-funding affected planned activities which may have impacted negatively on service delivery.

951. Late Exchequer Releases

The statement of receipts and payments and as disclosed in Note 1 to the financial statements, reflects transfers from County Revenue Fund (CRF) amount of Kshs.8,520,597,992. Included in transfers is an amount of Kshs.1,686,316,641 which was transferred from the CRF on diverse dates between 18 June, 2024 and 5 July, 2024.

The late exchequer releases may have impacted negatively on the implementation of the planned activities and projects.

My opinion is not modified in respect of these matters.

Other Matter

952. Unresolved Prior Year Matters

In the previous year's audit report, several issues were raised under Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved these issues as at 30 June, 2024 and no satisfactory reasons were provided for failure to resolve them.

953. County Executive Preparedness to Transition to Accrual Accounting

The County Executive had not implemented the prerequisites to accrual accounting, except training four (4) members of staff in the Finance Department and adoption of quarterly reporting template on accrual basis. Further, The National Treasury had not configured the Integrated Financial Management Information System (IFMIS) to support accrual accounting contrary to Paragraph 1.4 of the Guidelines on Transition from Cash Basis to Accrual Basis of Accounting by Ministries, Departments, Agencies (MDAs) and County Governments which provides that on 7 March, 2024 the Cabinet approved the transition from cash basis of accounting to accrual basis of accounting with effect from 1 July, 2024 and that the transition is to be undertaken over a three-year period. This therefore means that the entity's financial statements for the year ended 30 June, 2025 shall be prepared on IPSAS accrual basis of accounting and reporting.

In the circumstances, the County Executive may not be adequately prepared to transition to accrual basis of accounting.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

954. Non-Compliance with the Public Sector Accounting Standards Board Reporting Framework

The budget execution by programmes and sub-programmes schedule reflects column headings for budget amounts indicated as Approved Budget, Approved Supplementary 1 and Approved Supplementary 2. This was contrary to the prescribed reporting template which requires columns for budget amounts to be titled Original Budget, Adjusted Budget and Final Budget.

Further, Annex 2 on analysis of pending accounts payable does not reflect names of suppliers of goods or services and the related dates invoiced or contracted, particulars, original amounts, balances at the beginning of the year, additions during the year, amounts paid during the year and outstanding balances. Therefore, Management has contravened Section 164(1) of the Public Finance Management Act, 2012, which requires accounting officers of county government entities to prepare financial statements in formats that comply with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

In the circumstances, the financial statements as prepared and presented for audit do not comply with the reporting frameworks as prescribed by the Public Sector Accounting Standards Board.

955. Non-Compliance with Fiscal Responsibility Principle on Development Expenditure

The statement of comparison of budget and actual amounts (development) reflects total actual expenditure amount of Kshs.2,352,710,272 or 27% of the total expenditure of Kshs.8,652,021,734 reflected in the statement of receipts and payments. This was contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015, which requires development expenditure to be at least 30% of total expenditure.

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

956. Pending Accounts Payables

Annexure 2 to the financial statements reflects pending accounts payables balance of Kshs.1,763,314,575. During the year under review, the total pending accounts payable were Kshs.2,485,371,148, out of which, Management paid an amount of Kshs.722,056,573, leaving a balance of Kshs.1,763,314,575. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015, which states that debt service payments shall be a first charge on the County Revenue Fund and the accounting officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations. Further, failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent years as they form a first charge.

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

957. Irregularities in Human Resource Management Practices

Review of human resource records revealed the following irregularities:

957.1 Non-Compliance with Fiscal Responsibility Principle on Wage Bill

The statements of receipts and payment reflects an amount of Kshs.3,255,148,943 in respect of compensation of employees, while the County Revenue Fund indicated total revenue of Kshs.8,520,597,992. Therefore, compensation of employees represented 38% of the total revenue received, contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which stipulates that the County Governments' expenditures on wages and benefits for its public officers shall not exceed thirty-five (35%) of the County Government total revenue.

957.2 Delayed Confirmation in Employment

Analysis of the payroll for the month of June, 2024 revealed one thousand, one hundred and twenty-six (1,126) officers who had been on probation for more than six (6) months, contrary to Section B.13(1) of the County Public Service Human Resource Manual, 2016 which requires that an officer be put on probation for a period of six (6) months as provided for in the Employment Act, 2007.

957.3 Non-Compliance with National Cohesion and Integration Act, 2008

Analysis of the Integrated Personnel and Payroll Database (IPPD) records for the month of June, 2024 revealed that the County Executive had a total workforce of three thousand, three hundred and sixty-eight (3,368) out of whom, two thousand, four hundred and fourteen (2,414) or 72% were members of the dominant community in the County. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which requires that no public establishment shall have more than two-thirds of the staff from the same ethnic community.

Further, there were fifty-five (55) persons with special needs working for the County Executive, representing 1.6% of the workforce, which is below the threshold of 5% provided for in Section 13 of the Persons with Disabilities Act, 2003. In addition, persons with special needs were not represented in the County Executive Committee and among the chief officers appointed.

957.4 Non-Compliance with One-Third Rule

Analysis of the payroll for the month of June, 2024 revealed that a total of four hundred and sixty-three (463) officers earned less than a third of their respective basic salaries at various times during the year, contrary to Section 19(3) of the Employment Act, 2007 which provides that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

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

958. Non-Compliance with Access to Government Procurement Opportunities

The statement of receipts and payments reflects total expenditure amount of Kshs.8,652,021,734 out of which an amount of Kshs.3,093,707,805 related to the procurements. However, only an amount of Kshs.338,836,506 or 11% was categorized under the AGPO program. This was contrary to Section 53(6) of the Public Procurement and Asset Disposal Act, 2015, which provides that all procurement and asset disposal planning shall reserve a minimum of thirty per cent of the budgetary allocations for enterprises owned by women, youth, persons with disabilities and other disadvantaged groups.

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

959. Irregular Payments to the Council of Governors

The statement of receipts and payments reflects other grants and transfers amount of Kshs.292,446,593 and as disclosed in Note 5 to the financial statements which includes an amount of Kshs.269,345,193 in respect of other current transfers, grants, donations and subsidies. This balance includes an amount of Kshs.3,000,000 paid to the Council of Governors for the purpose of meeting its operational expenses. This was contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides that the operational expenses in respect of the structures and institutions established in this Act shall be provided for in the annual estimates of the revenue and expenditure of The National Government.

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

960. Irregular Payment to the Lake Region Economic Bloc

The statement of receipts and payments reflects other grants and transfers amount of Kshs.292,446,593 and as disclosed in Note 5 to the financial statements. Included in the expenditure is an amount of Kshs.269,345,193, under which a subscription amount of Kshs.2,000,000 was paid to the Lake Region Economic Bloc. However, the law under which the payment was made was not provided for audit.

In the circumstances, the regularity of the subscription amounting to Kshs.2,000,000 could not be confirmed.

961. Irregular Award of County Scholarship Programmes

The statement of receipts and payments reflects transfers to other Government Entities amount of Kshs.592,749,686 as disclosed in Note 4 to the financial statements, includes an amount of Kshs.120,000,000 transferred to the Migori County Ward Development Fund for bursaries. Further, the statement of receipts and payments reflects other grants and transfers amount of Kshs.292,446,593 which includes scholarships and other educational benefits amount of Kshs.23,101,400 that

relates to Inua Elimu scholarship programme. However, there were no regulations and scholarship policy used in identifying the beneficiaries.

In the circumstances, value for money in the award of bursaries and scholarships amounting to Kshs.143,101,400 could not be confirmed.

962. Irregularities in Procurements and Award of Contracts-Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,968,670,681 as disclosed in Note 7 to the financial statements. However, review of financial statements and records relating to procurements and contract management revealed the following unsatisfactory matters:

962.1 Inadequate Allocation of Funds for the Maintenance of Osiri-Macalder-Migori-Migori Slaughter-Magina-Nyasare Ochieng Orwa Primary Road

Included in the expenditure of Kshs.1,968,670,681 is an amount of Kshs.51,008,304 spent on construction of roads out of which, an amount of Kshs.7,975,046 was a contract in respect of maintenance of 29.9 km. The project start date was 28 February, 2024 with a completion period of one hundred and twenty (120) days. However, physical verification of the project in September, 2024 revealed that although the contractor provided the murram and graded several patches of the road that were impassable and compacted to form a camber formation as were provided in the Bill of Quantities, the drainage works were not done due to inadequate funds.

962.2 Unexplained Contract Variations and Delayed Project Completion

Included in the amount of Kshs.1,968,670,681 was construction of buildings balance of Kshs.389,145,106 out of which an amount of Kshs.3,579,702 was spent towards the construction of the maternity theater at Macalder Sub-County Hospital. The contract for the project was signed on 25 March, 2024 and the expected completion date was 25 July, 2024. However, on 28 March, 2024, three days after signing the contract, the project implementation committee proposed variations of works. The proposed variations were not quantified to assess how they would impact project cost and completion period. Further, physical verification conducted in the month of September, 2024, revealed that the project was incomplete.

962.3 Delays in Supply, Installation and Commissioning of Containers Fish Collection Centre (Cold Rooms)

The County Executive entered into a contract with a local Company on 1 March, 2024, for the supply, installation and commissioning of two (2) containers fish collection centres (cold rooms) at Uriri and Isibania markets at a contract sum of Kshs.9,981,023. The contract period was one hundred and twenty (120) days from the commencement date of 1 March, 2024 with a completion date of 30 June, 2024. Physical verification carried out in September, 2024 revealed that the project was not complete at the two project sites.

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

962.4 Incomplete Market Sheds

962.4.1 Construction of Kwiriba Market Shed

Included in the construction of buildings expenditure amount of Kshs.389,145,106 is an amount of Kshs.1,173,502 paid in relation to a contract signed on 26 May, 2023 to construct Kwiriba Market Shade to completion. However, physical verification on 10 September, 2024 revealed that the project was incomplete. Further, the market was not branded with the County Executive's logo, the floor of the whole market was peeling off, the toilet door had been vandalized and the market was not fenced hence prone to vandalism.

In the circumstances, value for money from the expenditure amounting to Kshs.1,173,502 could not be confirmed.

962.4.2 Completion of Masaba Market Shed

Included in the construction of buildings expenditure amount of Kshs.389,145,106 is an amount of Kshs.1,999,991 paid for the construction of Masaba Market Shed to completion. However, physical verification on 10 September, 2024 revealed that the project was incomplete. Further, the market was not branded with the County Executive's logo, drainage system was not done and the market was not fenced hence prone to vandalism.

In the circumstances, value for money from the expenditure amounting to Kshs.1,999,991 could not be confirmed.

962.4.3 Partial Completion of Midoti Market Shed

Included in the construction of buildings expenditure amount of Kshs.389,145,106, is an amount of Kshs.1,099,239 paid for the partial completion of Midoti Market Shed. However, physical verification in September, 2024 revealed that the project was incomplete as the drainage system, stalls tops and doors had not been done. Further, the market was not branded with the County Executive's logo and secured, hence prone to vandalism.

In the circumstances, value for money from the expenditure amounting to Kshs.1,099,239 could not be confirmed.

962.4.4 Other Incomplete Market Sheds

Included in the construction of buildings expenditure amount of Kshs.389,145,106 is an amount of Kshs.21,614,695 spent in respect of a contracts for the construction of Opapo Auction Ring, Oyani Masai, Mabera, Masangora, Kugitimo, Maeta, Ikerege, Olasi and Rongo market projects with contract sums totalling Kshs.21,614,695. However, physical verification revealed that the contractors were not on sites and the projects were not complete:

In the circumstances, value for money from the expenditure amounting to Kshs.21,614,695 could not be confirmed.

962.5 Un-Utilized Market Sheds and Waterborne Washroom

Included in construction of buildings expenditure amount of Kshs.389,145,106 is an amount of Kshs.7,925,086 spent on construction of Ombo Kowiti, Bande, Ndiwa and Oyara market sheds and one (1) toilet or washroom at contract sums totalling Kshs.19,006,635.

However, physical verification in September, 2024 revealed that the constructions of the projects had been completed, but the projects were not in use by the community.

In the circumstances, value for money from the expenditure amounting to Kshs.7,925,086 could not be confirmed.

962.6 Incomplete Rehabilitation of Kaknene Dam

The County Executive entered into a contract with a company for the rehabilitation of Kaknene Dam in God Jope Ward at a contract sum of Kshs.6,992,032. The project was one of the projects implemented under the Financing Locally-Led Climate Action (FLLoCA) program. The contract entailed rehabilitation of the dam, repair of embankment and spillway, fencing, intake tower and valve chamber, two lockable bathrooms/toilets and cattle watering troughs. The contract period was one hundred and twenty (120) days beginning on 18 March, 2024 and ending on 17 July, 2024. However, no payments had been made to the contractor during the year under review. Physical verification in September, 2024 revealed that the project was not complete despite the contract period having lapsed. The outstanding works include clearing excavated soil, piping and access culverts.

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

962.7 Un-Utilized Ablution Block Project at Rongo Sub-County Hospital

The construction of buildings expenditure amount of Kshs.389,145,106 includes an amount of Kshs.2,975,489 was spent on the construction of an ablution block at Rongo Sub-County Hospital. However, physical verification conducted in the month of September, 2024 revealed that the ablution block was complete but not in use, awaiting handing over by the contractor.

In the circumstances, the value for money from the expenditure amounting to Kshs.2,975,489 could not be confirmed.

962.8 Incomplete Face-lifting Awendo Sub-County Hospital

The construction of buildings expenditure amount of Kshs.389,145,106 includes an amount of Kshs.4,983,070 spent on the face lifting of Awendo Sub-County Hospital. However, physical verification conducted in the month of September, 2024 revealed that the project was incomplete with no work done at the Maternal and Child Health (MCH) block. The projected cost of doing the maternity wing was diverted to cover part of cost of roofing and ceiling wards.

In the circumstances, value for money from the expenditure amounting to Kshs.4,983,070 could not be confirmed.

962.9 Incomplete Construction of Maternity Block at Olasi Dispensary

The construction of buildings expenditure amount of Kshs.389,145,106 includes an amount of Kshs.4,796,200 spent on the construction of a maternity block at Olasi Dispensary. The contract agreement was signed on 29 February, 2024 for a period of one hundred and twenty (120) days. However, the Bill of Quantities and the certificate of practical completion were not provided for audit. Further, the project was incomplete and was not labeled.

In the circumstances, value for money from the expenditure amounting to Kshs.4,796,200 could not be confirmed.

962.10 Incomplete Construction of Buembu Dispensary

The construction of buildings expenditure amount of Kshs.389,145,106 includes an amount of Kshs.1,300,603 spent on phase 1-construction of Buembu Dispensary. The contract agreement was signed on 8 June, 2023 for a period of one hundred and twenty (120) days. However, the project was incomplete and was not labelled.

In the circumstances, value for money from the expenditure amounting to Kshs.1,300,603 could not be confirmed.

962.11 Incomplete Construction of Nyamware Dispensary

The construction of buildings expenditure amount of Kshs.389,145,106 includes an amount of Kshs.1,132,972 spent on the construction of Nyamware Dispensary. The contract was signed on 22 February, 2024 for a period of one hundred and twenty (120) days. However, the project was incomplete and was not labelled.

In the circumstances, value for money from the expenditure amounting to Kshs.1,132,972 could not be confirmed.

962.12 Un-Utilized Projects in Rongo Sub-county Hospital and Migori County Referral Hospital

The acquisition of assets amount of Kshs.1,968,670,681 includes purchase of specialized plant, equipment and machinery amount of Kshs.119,792,604 out of which, an amount of Kshs.999,640 was utilized to purchase a dental equipment which was supplied to Rongo Sub-County Hospital. However, inspection conducted in September, 2024 revealed that the equipment was not in use because the facility lacked a dentist.

Further, the construction of buildings amount of Kshs.389,145,106 includes an amount of Kshs.3,998,955 spent on the expansion of the mortuary at Migori County Referral Hospital. However, audit inspection conducted in September, 2024 revealed that the mortuary was not being utilized because it had not been equipped.

In the circumstances, value for money from the purchase of dental equipment and expansion of the mortuary amounting to Kshs.999,640 and Kshs.3,998,955, respectively could not be confirmed.

962.13 Incomplete Construction of Bongu Raga Water Project

The acquisition of assets amount of Kshs.1,968,670,681 includes construction and civil works amount of Kshs.331,830,637 out of which, an amount of Kshs.25,999,880 was spent on the construction of the main water kiosks, and distribution pipelines at Bongu Raga Water Project Phase 4 at a cost of Kshs.24,999,880. The contract period was one hundred and twenty (120) days from 13 March, 2024 to 12 July, 2024. The costs of phases 1 to 3 totalled Kshs.34,350,000 resulting to the total cost of the project to an amount of Kshs.59,349,880. However, physical verification conducted in the month of September, 2024 revealed that the project was incomplete. The pipes were not connected end-to-end because testing was yet to be completed. Further, the lake had already destroyed the foundation of the control room at the water intake and the structure was being submerged in the lake.

In the circumstances, the value for money realized from the expenditure amounting to Kshs.59,349,880 could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

963. Job Designations not Defined by the County Executive

Review of the Integrated Payroll and Personnel Database (IPPD) records for the month of June, 2024, revealed that job designations for forty-four (44) officers were not defined in the database.

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

964. Lack of Segregation of Duties in the Processing of Payments of Salary Arrears

Review of the internal controls over payment of the salary arrears amount of Kshs.46,091,220 revealed that the tabulation, verification and payment authorizations were done by a single officer due to the inadequacy of staff at the payroll section.

In the circumstances, the effectiveness of internal controls over the processing of salary arrears could not be confirmed.

965. Failure to Customize Schemes of Service to Suit the County Executive

Review of the County Executive's schemes of service revealed that they were prepared by the National Government for use by its officers before the commencement of the County Governments. The schemes of service do not address all the cadres of staff and incorporate the changes that have occurred within the County Executive's staff establishment over the years.

In the circumstances, the schemes of service were not able to effectively guide in the development of a coherent and integrated human resource for the County Executive.

966. Under Staffing of County Attorney's Office

Information provided for audit indicated that the Office of the County Attorney had an approved staff establishment of eight (8) officers while four (4) legal officers were in place which represents 50% of its approved capacity. Further, no legal personnel were hired in the year under review despite there being a need to do so. This was contrary to Section 22(1) of the Office of the County Attorney Act, 2020 which stipulate that there shall be such officers and other members of staff of the Office as the County Attorney, in consultation with the County Public Service Board, considers necessary for the proper and efficient discharge of the functions of the Office.

In the circumstances, the effectiveness of the County Attorney's Office to discharge legal matters affecting the County Executive may not be achieved.

COUNTY EXECUTIVE OF KISII – NO.45

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

967. Unexplained Voided Transactions

Review of the Integrated Financial Management Information System (IFMIS) system payments reflected that six hundred and four (604) transactions amounting to Kshs.232,358,841 were voided during the year 2023/2024. Information provided indicate that the Controller of Budget (CoB) had approved payment of the voided transactions. Management did not provide explanations as to why the payments were voided after approval and when they were subsequently paid.

In the circumstances, the accuracy and regularity of the expenses amounting to Kshs.232,358,841 could not be confirmed.

968. Non-Adherence to Year End Cut-Off Procedures

Included in the total payments is an amount of Kshs.574,699,955 recorded in the Integrated Financial Management Information System (IFMIS) as having been made between 1 July, 2024 and 15 July, 2024. Although Management explained that the payments were made to clear commitments made prior to 30 June, 2024 and were authorized by the National Treasury, the financial statements have been prepared on cash basis of accounting under which, as disclosed in significant accounting policy (d), expenses are recognized when the event occurs and the related cash has been paid out.

In the circumstances, the accuracy and regularity of payments amounting to Kshs.574,699,955 could not be confirmed.

969. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.726,415,634 as disclosed in Note 3 to the financial statements. The amount includes expenditure amounts of Kshs.4,595,248, Kshs.6,000,000 and Kshs.607,284 all totalling Kshs.11,202,532 in respect of printing, advertising, information supplies and services, utilities, supplies and services and communication, supplies and services respectively. However, payment vouchers and relevant supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness of use of goods and services amount of Kshs.11,202,532 could not be confirmed.

970. Unsupported Legal Expenses

The use of goods and services includes other operating expenses amount of Kshs.100,054,122 out of which an amount of Kshs.29,135,024 was spent on legal fees for various court cases filed against the County Executive. Included in the amount were two payments amounting to Kshs.15,000,000 made to a construction

company. Review of the supporting documents revealed that the payment was as result of a case filed against Kisii Municipal Council in 2007 for non-payment of the contract of principal amount of Kshs.7,173,473 which was appealed up to the Supreme Court and the final judgment was made on 16 July, 2021 against the County Executive. The contractor was awarded the principal amount of Kshs.7,173,473 plus the interest accrued over the years amounting to Kshs.31,007,434. However, the documents supporting all the payments to external law firms that defended the defunct Kisii Municipal Council and subsequently the County Executive, including the case file pertaining to the case, County Attorney advisory before the cases were appealed to the Supreme Court and the original contract between the company and defunct Kisii Municipal Council were not provided for audit.

In the circumstances, the accuracy and completeness of legal expenditures amounting to Kshs.29,135,024 could not be confirmed.

Emphasis of Matter

971. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects final receipts budget and actual on a comparable basis amount of Kshs.11,872,739,910 and Kshs.8,284,558,775 respectively, resulting in an under-funding of Kshs.3,588,181,135, or 30% of the budget. Similarly, the County Executive spent an amount of Kshs.3,433,059,468 against actual receipts of Kshs.3,588,181,135 resulting in an under-utilization of Kshs.155,121,667 or 4% of actual receipts.

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

972. Pending Accounts Payables

Note 14(1) to the financial statements on pending accounts payables, under other important disclosures, reflects balance brought forward as at 1 July, 2023 of Kshs.1,190,913,975, addition for the year of Kshs.1,030,891,518, paid during the year of Kshs.43,638,305 and the balance carried forward as at 30 June, 2024 of Kshs.2,178,167,188. However, schedules supporting these balances were not provided for audit. Further, Management failed to settle the pending bills of Kshs.2,178,167,188. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015, which provides that debt service payments shall be a first charge on the County Revenue Fund and the accounting officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations.

Failure to settle pending bills during the year to which they relate to adversely affects the provisions for the subsequent year to which they have to be charged.

My opinion is not modified in respect of these matters.

Other Matter

973. Unresolved Prior Year Matters

In the audit report for the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report of Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not resolved the issues as at 30 June, 2024, and did not provide satisfactory reasons for failure to resolve the prior year audit matters.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

974. Irregular Expenditure on Emergency Items for COVID-19 Pandemic

During the financial year under review, the County Executive through the Finance and Accounting Services department incurred an amount of Kshs.2,171,180 in relation to a pending bill for emergency Covid-19 items for the Kisii County Emergency Fund. This was contrary to the County Executive having an Emergency Fund created to cover such expenditure created as per Section 110(2) of the Public Finance Management Act, 2012 for emergency or unforeseen circumstances. No explanation was given by Management for the non-compliance. This was contrary to Section 110(2) of the Public Finance Management Act, 2012 which states that the purpose of an Emergency Fund is to enable payments to be made in respect of a county when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises

In the circumstances, Management was in breach of law and value for money realized from the expenditure of Kshs.2,171,180 could not be confirmed.

975. Non-Compliance with Fiscal Responsibility Principles

975.1 Development Expenditure

The statement of comparison of budget and actual amounts (recurrent and development combined) reflects total actual expenditure amount of Kshs.8,439,680,442, while the statement of comparison of budget and actual amounts: development reflects total actual expenditure of Kshs.1,598,955,980 representing 19% of the total expenditure. This was contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015, which stipulates that the County government's actual expenditure on development shall be at least thirty percent in conformity with the requirement under section 107(2)(a) of the Act.

975.2 Wage Bill

The statements of receipts and payments reflects compensation of employees amount of Kshs.5,647,519,423, representing 60% of the County Executive total revenue for the year of Kshs.8,284,558,775. This was contrary to Regulation 25(1) (a) and (b) of

the Public Finance Management (County Governments) Regulations, 2015, which provide that the county government's expenditure on wages and benefits shall not exceed 35% of the county government's total revenue.

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

976. Irregularities in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees' amount of Kshs.5,647,519,423. The following anomalies were noted:

976.1 Under-Payment of Staff

Review of the County Executive's payroll for the month of July, 2023 revealed that nine hundred and four (904) employees earned a monthly pay of less than Kshs.14,025 which was the minimum monthly wage set in the Regulation of Wages General Amendment Order of May, 2022 for employees working in the County Government of Kisii.

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

Review of the personnel records provided for audit revealed that as at 30 June, 2024, the County Executive had a total of five thousand, five hundred and seventy (5,570) employees in its payroll from various ethnic communities. Out of these, 94% were from one dominant community in the County. This was contrary to the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public officers shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its establishment from the same ethnic community.

976.3 Non-Compliance with One-Third of Basic Salary Rule

An analysis of the County Executive's monthly payrolls revealed that twenty-eight (28) employees had net pays that were below a third of their respective basic salaries, contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deductions from the wages of an employee shall not exceed two thirds (2/3) of such wages.

976.4 Irregular Earnings of Salary by the County Attorney

Review of the records of the County Executive revealed that the Governor appointed an officer as the County Attorney vide a Gazette Notice No. 14717 on 30 November, 2022 in a letter of appointment issued on 1 December, 2022. However, a private citizen proceeded to the Employment and Labour Relations Court at Kisumu to contest the employment of the County Attorney and filed a petition. On 24 January, 2024, the Employment and Labour Relations Court at Kisumu quashed the appointment of the officer through a judgement delivered virtually. However, as at the time of the audit, in September, 2024, the officer continued being in the payroll and had received salary amounting to Kshs.3,384,632 from January, 2024 to August, 2024.

976.5 Irregular Recruitment of Staff

Review of personnel records revealed that in February, 2024, the Public Service Board advertised for various vacant positions and among them was the position of a Quantity Surveyor which had four (4) vacancies. The advertisement attracted twenty-four (24) applicants out of whom, fourteen (14) applicants were shortlisted for the interview. Review of recruitment records revealed that only two (2) applicants out of the fourteen (14) shortlisted were absorbed for the position, the second and the seventh best ranked. Management did not provide an explanation for picking the 2nd and 7th ranked candidates. Further, there was no evidence that the other candidates were offered employment and declined. In addition, no explanation on why the Public Service Board absorbed only two people while it advertised for four (4) was provided for audit. This was contrary to Section 25 (1) and (2) of the County Service Act, 2017, which stipulates that the Board shall formulate and disseminate to officers of the Service, schemes of service setting out the terms and conditions for the appointment of the officers and other staff of the Service which shall provide for the appointment and confirmation in appointment of officers and other staff and The Secretary shall be responsible for the administration of the schemes of service for the staff of the Service.

976.6 Long Outstanding Disciplinary Cases

Review of staff files revealed that five (5) staff had pending disciplinary cases for more than the stipulated period of six (6) months. The staff were either on suspension and on half pay or had salary stoppages during this period. No explanation for this anomaly was provided. This was contrary to part K.3 (4) of the Kisii County Human Resource Manual which states that disciplinary cases should be dealt with promptly and finalized within a period of six (6) months, and where it is found impracticable to do so the Authorized Officer shall report individual cases to the Public Service Board explaining the reason for the delay.

In the circumstances, Management was in breach of the law

977. Irregular Advance Payment for Fuel

The statement of receipts and payments reflects use of goods and services balance of Kshs.726,415,634 which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.55,539,905 in respect of fuel, oil and lubricants. Included in the amount is Kshs.30,000,000 used to purchase fuel which was paid to three suppliers, with each receiving Kshs.10,000,000. The fuel had not been drawn by the vehicle, plant and machinery. In addition, the prepaid fuel to the third supplier of Kshs.10,000,000 was yet to be consumed as at the date of audit in 23 October, 2024, four months after the prepayment was made. Prepayment of the goods is contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015, which provides that, contracts for works, goods or services may only be paid for after they are executed and approved by the Accounting Officer.

In the circumstances, Management was in breach of law.

978. Irregularities in the Procurement and Award of Contracts

978.1 Unutilized Market Facilities

Review of the payment records in the Department of Trade Development and Regulations revealed that payments amounting to Kshs.6,202,806 were made to various contractors for the completion of a pit latrine at Kionyo market, ventilated toilet at Nyamaiya Market, Ochodororo markets shed and Mama Mboga shed. However, a physical inspection of these projects revealed that despite all having been completed, they were not being utilized by the community as provided, the pit latrines at Kinonyo and Nyamaiya markets had poor ventilation and lacked water for usage while the market shed at Ochodororo was inaccessible due to high height and no stairs to facilitate the access.

In the circumstances, value for money on the amount of Kshs.6,202,806 incurred on the projects could not be confirmed.

978.2 Irregular Payment of Retention Money

Review of payment details from the Department of Trade Development and Regulations revealed that a contractor was paid a retention money amount of Kshs.5,771,846 in respect to the construction of Suneka Market. However, the following anomalies were observed:

- i. The original contract agreement entered into in 2014 between the County Executive and the contractor in which the retention clause is stated was not provided for audit.
- ii. The amount of Kshs.5,771,846 retention money was based on the total amount certified to date of Kshs.57,718,453 as outlined in certificates No.1, 2, 3, 4 and 5, which were, however, not provided for audit.
- iii. A letter dated 5 June, 2023 from the County Attorney to the County Executive Committee Member of Finance and Economic Planning stated that after a court case, the arbitrator awarded the Company an amount of Kshs.23,770,660 and that the Executive had agreed to settle this claim at an amount of Kshs.12,573,735, thereby instructing the County Executive Committee Member to pay the company an initial part settlement amount of Kshs.5,000,000. However, the arbitrary proceedings and legal files of this case were not provided for audit.
- iv. The Inspection and acceptance certificate and certificate of completion used for the payment of the retention money were not provided for audit.

Physical inspection conducted on 1 August, 2024 revealed that the project was incomplete and the contract for its completion had been re-awarded to another contractor as construction of Suneka Markets Phase III.

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

978.3 Over-payment for Printing and Supply of Assorted Materials

Review of payment records in the Department of Trade Development and Regulations revealed that the Department awarded contract for printing and supply of assorted materials at a contract sum of Kshs.2,298,500. The contractor was paid an amount of Kshs.2,997,000 which was more than the contract sum by Kshs.698,000. No explanation was given for the over payment. Further, the counter receipt voucher (S13) and the issue and requisition voucher (S11) were not provided for audit.

In the circumstances, value for money on the amount of Kshs.2,997,000 could not be confirmed.

978.4 Incomplete Projects - Department of Roads and Public Works

The County Executive awarded a contract amounting to Kshs.26,641,662 to a Company for construction, repair and maintenance of eleven (11) Lot 2 roads in Bonchari Sub- County, on 7 December, 2023. The contract was to run for 24 weeks. Physical inspection of the roads revealed the following anomalies;

- (i) Five (5) roads were opened but not graded or graveled and culverts and signage were not installed.
- (ii) Two (2) roads were partly graveled and had poor workmanship
- (iii) Two (2) roads had no culverts installed
- (iv) Works for one (1) road had not started and only one road was completed

Further, the Department awarded a contract at a sum of Kshs.62,415,692 for construction, repair and maintenance of Lot 2 roads in Bobasi Sub-County. Physical inspection revealed that an amount of Kshs.1,149,003 was paid for repair and maintenance of Riamiyungo-Nyakegara-Nyachenge Junction Road before proper completion of the Project. A section of the road covering a distance of 1.7km was graded but not gravelled.

In addition, fifteen (15) roads with a value of Kshs.37,843,341 were sampled for physical inspection and the roads were not completed within the contract period and no extension or approval for contract variation was provided for audit.

In the circumstances, value for money on the amount incurred on the projects could not be confirmed.

978.5 Irregular Procurement of Cleaning Services

The Kisii Town Municipality signed a framework agreement with several organizations for cleaning services and paid a total of Kshs.14,100,000 in the year under review. Review of documents revealed the following; (i) The framework agreement as a method of procurement was not specified in the approved annual procurement plan, (ii) The services being procured do not qualify under framework agreement since the quantity are determinable at the time of entering the agreement, (iii) There was no evidence to confirm that the firms were identified competitively through an open tender prior to signing the framework agreements, (iv) There were no quarterly reports made to the Accounting Officer or Internal Auditor and (v) there was no annual value for money assessment to determine whether the terms designed in the Framework

Agreement remain competitive. The payment was however paid by the County Executive.

In the circumstances, value for money on the expenditure of Kshs.14,100,000 incurred on the projects could not be confirmed.

978.6 Irregular Procurement of Insurance Services

The County Executive entered into a contract for the Provision of Medical Insurance Services to the Staff and their qualified dependents for the FY 2023-2024, at a contract sum of Kshs.202,421,473. An amount of Kshs.150,000,000 was paid to the service provider on 13 December, 2023. A debit note for the balance of Kshs.52,421,473 was raised on 6 February, 2024 but evidence of payment of this amount was not provided for audit. However, the following anomalies were noted:

- i. Review of the Insurance Regulatory Authority's Insurance Industry Report for the period January to September, 2023 revealed that the company that won and the other company that was disqualified at the financial evaluation stage did not submit financial statements to the Authority during the quarter ended 30 September, 2023 and previous three quarters. The due diligence done by the evaluation committee did not flag the above anomaly as the committee did not seek to find out whether the winning bidder complied with the regulator before the award of the tender;
- ii. The company that was disqualified during the technical stage appealed on 22 November, 2023 through a regret letter dated 14 November, 2023 and articulated the classes of insurance the company was licensed to operate, but the County Executive never sought clarification from the regulator;
- iii. Correspondences between various hospitals and the Company that won the tender revealed that the Service Provider was not settling insurance claims to the hospitals as required and as a result, some of the contracted hospitals suspended offering medical services to clients insured by the Service Provider.

In the circumstances, the value for money on the amount of Kshs.202,421,473 could not be confirmed.

978.7 Upgrading of Mosochi Market Health Centre

The County Executive made payments totalling Kshs.36,439,523 for the proposed upgrading of Mosochi Market Health Centre Kitutu Chache South Sub-County. However, the project file was not provided for audit. Further, procurement documents such as tender opening minutes, tender evaluation minutes and evaluation report, bill of quantity were also not provided for audit.

In the circumstances, value for money on the expenditure amounting to Kshs.36,439,523 could not be confirmed.

978.8 Installation of Generator at Gusii Stadium Office

The County Executive entered into a contract for the installation of 65KVA generating set and solar system at Gusii stadium offices at a contract sum of Kshs.9,375,400.

However, procurement documents from tender advertisement to award of contract were not provided for audit.

In the circumstances, the value for money on the amount of Kshs.9,375,400 could not be confirmed.

978.9 Funding of Idle Projects

Review of the contract provided under the Department of Medical Services, Public Health and Sanitation revealed that Management spent an amount of Kshs.3,283,440 which includes expenditure on the proposed completion of Nyandiba dispensary amount of Kshs.1,283,700 and expenditure on the proposed completion of OPD to Kiabusura dispensary amount of Kshs.1,999,740. However, the following issues were noted:

- (i) Physical inspection of the projects in September, 2024, revealed that the projects were completed as per Bill of Quantities but they were not in use.
- (ii) The access road to Nyandiba dispensary was through a private land.
- (iii) Ownership of parcels of land for the two dispensary projects implemented, could not be verified since title deeds were not provided for audit.
- (iv) Management spent an amount of Kshs.1,873,950 towards proposed completion of Nyabworoba Health Centre. However, the project was for the financial year 2022/2023 that was paid in the year under review as a pending bill. However, the year under review the budget revealed no budget allocation for the project. The project is incomplete with substantial works still pending such as interior and exterior works, flooring, windows pains, verandah, painting and electrical works.

In the circumstances, the value for money realized on amount of Kshs.5,157,390 incurred on the projects could not be confirmed.

978.10 Payment for Works not Done

The Department of Medical Services, Public Health and Sanitation awarded a contract for the proposed continuation of Riotachi Dispensary at a contract amount of Kshs.998,050 which was paid in full on 25 June, 2024. Physical verification of the project on 4 September, 2024 revealed that the works on the proposed continuation of Riotachi Dispensary was done. However, electrical works amounting to Kshs.370,000 were not done despite minutes of site meeting on 18 October, 2021 stating that the contractor had completed the project as per the specification given and that the project was complete and ready for handing over

In the circumstances, value for money in the amount of Kshs.370,000 could not be confirmed.

978.11 Proposed Levelling of Marani Stadium

The County Executive entered into a contract for the levelling works to Marani Stadium Phase I at a contract sum of Kshs.2,837,795 on 31 May, 2023. Physical inspection conducted on 3 September, 2024 revealed that the contractor deviated from the specifications in the bill of quantities as follows:

Requirement in the Bill of Quantities	Amount (Kshs.)	Status
Fill in carefully selected murram and compact to 95% MDD (AASHTO T99)	1,272,900	Carting was not done properly thus backfilling was done using red soil which could get muddy when it rains.
Grade existing backfilled area including slopes and compacting as instructed by engineer.	21,215	Curvature and the negotiation corners were not done to standards.
50mm thick quarry dust blinding soil to murram surfaces	1,060,800	The quarry dust layer spread was too thin and the use of quarry chippings which is too rough and not recommended.
Plant approved grass to stadium general areas to architect satisfaction and allow of application of fertilizer and watering	142,880	30% of the field was not covered by grass

In addition, no variation orders were provided to support the deviation from the required specifications.

In the circumstances, value for money realized from the expenditure of Kshs.2,837,795 could not be confirmed.

978.12 Irregular Appointment of a Private Investor

The EU-IDEAS Programme - Local Economic Development Grants in collaboration with the County Executive put up a banana processing plant on a three-acre plot of land within the Kisii Agricultural Training Centre for an amount of Kshs.151,000,000. The plant was supposed to be leased to a private investor with the objective of 'Strengthening the Kisii County Banana Value Chain for Local Economic Development.' The following issues were noted regarding the plant:

978.12.1 Expression for Interest

The County Executive invited potential investors through an open international tender, to inspect the Banana Processing Plant for expression of interest on (EOI) March, 2021. The eligibility criteria set out in the EOI was that the investor was undertaking or has undertaken a similar assignment for at least five (5) years, and is already in the business of marketing processed food products, demonstrate access to market, has access to adequate capital and demonstrate ability to work with farmer organizations in production, aggregation, value addition and marketing. The outcome of EOI was not provided for audit.

On 1 March, 2022, a private investor, did a due diligence report to the County Executive with elaborate terms of reference. It was not clear how this investor came in as they were not subjected to the terms of the EOI. The private investor was incorporated on 30 November, 2021 and did not meet the eligibility criteria. There was no evidence of the private investor demonstrating market access or capital adequacy or the ability to work with farmers for this particular value chain. On 3 June, 2022, the County Executive signed a Memorandum of Understanding with the Investor to run and operate the banana processing plant.

In the circumstances, the Private Investor was irregularly procured and assigned to operate the banana processing plant.

978.12.2 Lease and Rental Obligations

On 27, May 2022, the County coordinator EU-IDEAS project gave instructions to the County Property Valuer to assess the plant and equipment and come up with a market-appropriate rental rate. On 1 June, 2022 a valuation report was conducted by the County Valuer who recommended a rental rate of Kshs.150,000 that is Kshs.120,000 for rent of premises and Kshs.30,000 for land rate for the three acres. From the unregistered lease agreement, the lease was set out for a period of thirty (30) years but after the 6-month grace period, the rent payable was un-procedurally reduced to Kshs.90,000.

The private investor, has not paid any rent to date. It was not clear how the 30-year period of the lease was arrived at as there was no evidence of public participation or justification of the same. The County Executive did not provide for audit monitoring and evaluation reports to confirm that the private investor was supporting local farmers.

In the circumstances, value for money on the expenditure incurred on banana processing plant could not be confirmed.

978.13 Unutilized ECDE Classrooms

Review of records and IFMIS payment details revealed that the County Executive through the Department of Education paid an amount of Kshs.596,448 and Kshs.212,760 towards completion of classrooms at Otamba and Masongo ECDE primary schools respectively. However, physical inspection conducted during the audit on 30 August, 2024, revealed that the projects were complete but yet to be utilized.

In the circumstances, value for money on the amount of Kshs.809,208 could not be confirmed.

978.14 Project Implementation Status - Department of Education

Review of records and IFMIS payment details revealed that the Department of Education, Technical Training, Innovations, and Manpower Development engaged various contractors to undertake the development of ECDE classrooms in sampled seven (7) primary schools at a total contract amount of Kshs.5,678,445. A total of Kshs.4,025,118 had been paid in the year under review. However, physical inspection conducted on 30 August, 2024, revealed that four (4) classes were complete and in use but signs of poor workmanship were visible, three (3) classrooms were complete but not in use with signs of poor workmanship visible.

In the circumstances, value for money on expenditure of Kshs.4,025,118 on the implementation of education department projects could not be confirmed.

978.15 Project Implementation Status - Department of Lands

Review of records and IFMIS payment details revealed that the Department of Lands, Physical Planning, and Urban Development engaged various contractors to undertake

road rehabilitation and maintenance projects, with a total contract amount of Kshs.7,795,328. However, physical inspection conducted on three (3) during the audit on 30 August, 2024, revealed that the three (3) roads had been completed but poor workmanship was visible, poor gravelling and compacting, culverts were poorly constructed, some sections of the roads had been cut off by rain waters due to blocked drainages and signages were missing.

In the circumstances, value for money on expenditure amount of Kshs.7,795,328 could not be confirmed.

978.16 Project Implementation Status – Department of Culture

Review of records and IFMIS payment details revealed that the Department of Culture, Sports and Social Services engaged various contractors to undertake development projects at a total contract amount of Kshs.19,133,627. However, a physical inspection on 1 September, 2024 on four (4) projects, revealed that the projects in Marani Stadium Phase I were complete and in use. However, poor workmanship on the floor was visible and 30% of the field was not covered by grass, while the recommended murram was not used. Construction of a wall in Gusii Stadium phase I was at 70% complete but drainage works were not done. In addition, the installation of a 65 KVA generator and solar system was done but the file containing correspondences was not provided for audit.

In the circumstances, value for money on the amount of Kshs.17,291,477 incurred on the department could not be confirmed.

978.17 Construction of County Aggregation and Industrial Park

Review of Trade Department and Regulations projects records revealed that the Kisii County Executive awarded a contract for the construction of County Aggregation and Industrial Park at a contract sum of Ksh.477,941,470. However, the following issues were noted:

- i. An advance payment of Kshs.95,588,294 was made to the contractor upon winning the tender. However, Management did not provide evidence of the circumstances under which the advance payment was made.
- ii. The Memorandum of Understanding between the National Government and the County Government on co-sharing of the project was not provided for audit.
- iii. No ownership documents for the land on which the construction was to be undertaken belonged to the County Executive.
- iv. Feasibility study for the project, National Environment Management Authority (NEMA) approvals, and signed programme of works were also not provided for audit.

Physical inspection conducted on 3 September, 2024 revealed that the signpost was not erected at the site of construction, poor access road to the project site and the project site was located in a swampy area or a wetland.

In the circumstances, value for money realized on expenditure amounting to Kshs.95,588,294 could not be confirmed.

978.18 Failure to Perform Project Handover and Acceptance after Completion

Review of procurement records and IFMIS payment details revealed that the Department of Education, Technical Training, Innovations, and Manpower Development engaged various contractors to complete the construction of six (6) classrooms at a total contract amount of Kshs.6,172,615. However, Management did not provide handover and acceptance minutes, as well as completion reports from the contractors for audit.

In the circumstances, the value for money for the expenditure of Kshs.6,172,615 could not be confirmed.

978.19 Renovations done in Unoccupied House

Review of records and IFMIS payment details revealed that the Department of Land, Physical Planning and Urban Development paid an amount of Kshs.1,931,878 towards the renovation of a house at Lower Milimani Kisii. The contract was scheduled to commence on 1 April, 2024, with an expected completion date of 1 June, 2024. However, a physical inspection conducted during the audit on 3 September, 2024, revealed that the renovation works were complete but the house remained unutilized. Management did not provide handover and acceptance minutes and reports of the project by the contractor after the completion of the renovation work for audit verification.

In the circumstances, value for money on expenditure amounting to Kshs.1,931,878 could not be confirmed.

978.20 Irregular Advance Payment in Construction of New County Headquarters

Review of the documents provided for audit revealed that the Management and a contractor entered into a contract for the construction of Kisii County Headquarters at a contract sum of Kshs.499,995,565. However, an advance payment of Kshs.99,999,113 was made to the company upon winning the tender. Management did not provide evidence of circumstances under which the advance payment was made after the signing contract with the company. Further, approvals from National Environment Management Authority (NEMA), and certificates from the National Construction Authority (NCA) for the construction were not provided for audit.

In the circumstances, value for money on the expenditure amounting to Kshs.99,999,113 could not be confirmed.

978.21 Delayed Alteration and Renovations of Governor's Office

Review of the documents provided for audit revealed that a contract was signed for alteration and renovations of County Executive offices at the old Municipal Building at an amount of Kshs.24,921,817. The contract was for 24 weeks ending 20 December, 2023. At the time of audit in September, 2024, works were still in progress. No explanation was provided for the delayed work. Further, an explanation why this Office was being renovated to the standards of housing a Governor and at

the same time the County Headquarters building included Offices for the Governor too was in progress were not provided for audit.

In the circumstances, value for money on expenditure amounting to Kshs.24,921,817 could not be confirmed.

978.22 Delayed Installation of Metro Optical Cable at Governor's Office

Review of procurement records provided for audit revealed that a contract for Installation of Metro optical cable to Governor's Office at the Kisii Municipality Premises and SD-WAN Connectivity to Sub-Counties was awarded at a contract sum of Kshs.8,998,713. The contract was to start on 26 July, 2022 for a period of four (4) months. However, as at the time of audit in September, 2024, work was yet to commence. The Municipality building on which the installation was to be done was under renovations. No explanation was provided for scheduling works on a building that was to be ready two years later. During the year under review an amount Kshs.4,126,029 of the contract sum was paid.

In the circumstances, value for money on the expenditure amounting to Kshs.4,126,029 could not be confirmed.

978.23 Irregular Procurement of Fuel

Review of fuel records provided for audit and IFMIS payment details revealed that the Department of Lands, Physical Planning, and Urban Development directly procured the supply and delivery of fuel from a services station at a cost of Kshs.1,749,804. However, Management did not provide justification for using the direct procurement method, given that the procurement did not meet the conditions set in Section 103(2) of the Public Procurement and Asset Disposal Act, 2015. Additionally, a duly signed contract agreement, acceptance, evidence of the appointment of an ad-hoc evaluation committee, and other related procurement documents in support of the procurement were not provided for audit.

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

978.24 Irregular Acquisition of Software

Review of records and IFMIS payment details revealed that the County Executive through the Department of Lands, Physical Planning, and Urban Development, contracted for the supply, delivery, setup, and operationalization of GIS lab equipment and software, at a contract sum of Kshs.14,970,808. Two (2) software systems were acquired at an amount of Kshs.1,699,000. However, the two proprietary software products did not come with a perpetual license and will require the County Executive to pay similar amounts for an annual subscription. Further, the County Executive relies on the supplier of the software for technical support without a valid service level agreement for support and maintenance.

In the circumstances, value for money on expenditure amount of Kshs.1,699,000 incurred on the department could not be confirmed.

978.25 Funding of Unutilized Road

Review of contract documents provided for audit revealed that a contract for the rehabilitation of Posta-County Offices Road was awarded at a contract sum of

Kshs.977,524 for a period of six (6) months. Physical inspection carried out on 5 September, 2024 revealed that work on placement of gabion boxes and mattresses as specified in the Bill of Quantities (BQ) was not done, the length of the road done was approximately 100 meters and not 450 meters as indicated in the BQ and inspection certificate, the road was bushy and completely covered by grass, the side ditches and culverts were completely blocked impeding drainage and the road was not in use.

In the circumstances, value for money on the expenditure amounting to Kshs.977,524 could not be confirmed.

978.26 Lack of Title Deeds for Land Parcels Occupied by Projects

The Department of Water, Energy, Environment and Natural Resources initiated a number of water projects in collaboration with communities and institutions across the County at a total amount of Kshs.22,699,014. However, there was no evidence that the intended beneficiaries were involved through the public participation to enhance leadership, ownership, social accountability and sustainability of the projects. Further, no documents of transfer of ownership of these parcels of lands to the projects was provided. The water projects may, therefore, be faced with uncertain ownership tussels and operations.

In the circumstances, the ownership of the projects could not be confirmed.

979. Failure to Remit Retirement Contributions

Review of deduction documents provided for audit revealed that the County Executive owes Local Authorities Provident Fund (LAPFUND) a total of Kshs.1,605,562,651. The amount includes an outstanding principal amount of Kshs.23,852,200 and accrued interest amount of Kshs.1,581,710,452. Further, there is a debt amounting to Kshs.1,791,934,325 owed by the defunct local authorities, which has not been disclosed as a pending bill, despite the County Executive taking over assets and liabilities of defunct Local Authorities. In addition, demand letter from CPF Financial Services, dated 18 June, 2024, indicated that the County Executive owed the financial service an amount of Kshs.137,530,132. This includes outstanding principal contribution arrears of Kshs.3,172,635, accrued interest of Kshs.128,087,175, and an actuarial deficit of Kshs.6,270,322. However, Management did not provide an explanation or a budget for the unremitted funds or offered a payment plan to settle the outstanding staff pension contributions.

In the circumstances, receipt of retirement benefits from pension funds, as and when such benefits fall due to the existing employees, may have been adversely affected.

980. Irregularity in Security a Bank Loan

Review of the documents provided for audit revealed that a total of Kshs.751,850,064 was obtained by the County Executive as a loan from a bank to pay staff salaries. The amount included an amount of Kshs.77,696,792 borrowed on behalf of County Assembly of Kisii for payment of salaries. However, there was no evidence that the loan was approved by the County Assembly and was guaranteed by the National Treasury. Further, no explanation was provided why County Assembly had to obtain

a loan through the County Executive. In addition, terms and conditions of the loan, including interest and other charges payable and the terms of repayment were not provided and there was no evidence that the loans were wholly spent on salaries.

In the circumstances, the regularity of the loan amount of Kshs.751,850,064 could not be confirmed.

981. Sustainability of Climate Change Initiatives

Review of contract documents revealed that County Executive was awarded a contract for the rehabilitation of Keboye and Emborogo forests through tree planting at a contract amount of Kshs.1,854,000 for the projects of Climate Change under Department of Water, Energy, Environment and Natural Resources. Review of planting records revealed that 10,000 and 8,000 trees were planted in Keboye and Emborogo forest respectively. However, a physical inspection conducted on 4 September, 2024 to Keboye forest revealed that there were no proper measures taken to ensure the trees planted were well taken care of as a number of trees were destroyed by animals, the already grown trees were being cut down by the surrounding community, while some had dried up. It was also not possible to authenticate whether the ten thousand (10,000) trees were planted.

In the circumstances, value for money on the amount of Kshs.1,854,000 could not be confirmed.

982. Irregularities in Imprest Management

The statement of receipts and payments reflects use of goods and services amount of Kshs.726,415,634 as disclosed in Note 3 to the financial statements. Included in the amount is domestic travel and subsistence expenditure of Kshs.96,872,664. Further, the statement of assets and liabilities reflects Nil balance in respect of outstanding imprests. Management indicated that the payments of Kshs.96,872,664 were made through a reimbursement system whereby, officers traveling on duty outside the duty station, using their own funding and claimed for reimbursement upon return to duty station. However, the claim was unsupported as analysis of the IFMIS payment details for of the County Executive confirmed that payments for domestic travel and subsistence were directly expensed. This was contrary to Regulation 91(2) of the Public Finance Management (County Governments) Regulations, 2015, which stipulates that the officer authorized to hold and operate an imprest shall make a formal application for the imprest through an imprest warrant.

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

983. Failure to Submit Financial Statements for Audit

983.1 Ogembo Municipality

Records provided for audit revealed that the County Executive did not prepare and submit for audit financial statements for Ogembo Municipality. This was contrary to Section 180 of the Public Finance Management Act, 2012 which requires that, at the end of each financial year, the accounting officer of the City or municipality established by Urban Areas and Cities Act, No.13 of 2011 shall prepare financial statements in

accordance with the standards and formats prescribed by the Public Sector Accounting Standards Board and the provisions of the Urban Areas and Cities Act, 2011.

983.2 Sub-County Hospitals

The financial statements of Kenyena Sub-County Referral Hospital, Etogo Sub-County Hospital, Gesusu Sub-County Referral Hospital, Gucha Sub-County Referral Hospital, Ibacho Sub-County Hospital, Ibeno Sub-County Hospital, Iranda Sub-County Referral Hospital, Kenyerere Sub-County Hospital, Keumbu Sub-County Hospital for the year ended 30 June, 2024 were not submitted to the Office of the Auditor-General for audit. This was contrary to the requirement by the Public Sector Accounting Standards Board (PSASB) by 30 September each year.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

984. Weaknesses in the Revenue Collection System

Review of the County Executive Revenue Collection System revealed the following weaknesses:

984.1 Manual Invoicing

Review of the revenue collection revealed that invoicing in revenue collection was done manually and electronic record was kept on the revenue stream for property rates and county premises monthly rents. Invoices raised could not be matched with the amount paid into the bank account, leading to unaccounted revenue. This was as a result of lack of an audit trail from invoicing to payment of revenue into the bank and final reporting.

984.2 Uncollected Revenue of Property Rates

Review of the revenue collection revealed that the County Executive had budgeted to collect an amount of Kshs.25,000,000 from land rates during the year under review, but managed to collect an amount of Kshs.18,617,268, resulting in a shortfall of Kshs.6,82,732 of the budgeted revenue. Further, review of the County Executive's electronic (LAIFOMS) records revealed that the Management had not collected long outstanding property rates, inclusive of interest and penalties, totalling Kshs.546,132,152 which was owed by plot owners within Kisii Municipality and other areas in the County. In addition, there were no records or other evidence indicating that Management had initiated additional measures to collect the outstanding amounts. It was further noted that the County Executive was using the valuation rolls that had not been revised.

984.3 Ineffective Revenue Collection Systems

Review of the revenue collection revealed that during the year under review, the County Executive automated part of its revenue collection streams through a new Revenue Collection System. The County Executive did not have any backup of transactions that went through this system, and upon termination of the contract, those information records could not be accessed. It was not possible to confirm the accuracy of revenue collected during the year under review since Management claimed that the service provider locked it out of the system.

984.4 Uncollected Revenue from Land Lease

Review of the Memorandum of Understanding and lease agreement between the County Executive and a processing company revealed that County Executive leased two acres of land to a company at Kisii Agricultural Training Centre on 21 July, 2022 for a period of a period of fifteen (15) years, at the monthly rental sum of Kshs.70,000 for the first two (2) years of the lease, commencing on the first date of July, 2022 payable in quarterly or annually in advance. The Lessee was given a one-year grace period which commenced on the date of execution of the lease agreement. However, at the time of the audit in August, 2024, the first and second years' rent totalling Kshs.1,680,000 had not been paid by the Lessee as per the agreement signed by the above two parties. No explanations were given for the failure to collect rent from the lessee.

984.5 Anomalies in the Revenue Collection System

The County Executive procured the services of a company to provide an automated revenue collection and management system at the contract sum of Kshs.24,902,063 on 26 January, 2024. However, the following concerns were noted during the audit:

- (i) The vendor had been granted excess control of the system through the contract agreement and implementation of the project; The vendor was the one hosting the system and still working on it while it was in use, was the one in control of the paybill to which all mobile money payments go to before transferring the collection to the County Executive revenue account. Under the circumstances, the vendor acted like the receiver of revenue for the County Executive which is against the regulations.
- (ii) The contract, allowed a transaction fee of 5.4% of the total revenue collected through the system recoverable at the point of funds settlement. It was not clear how fee was to be settled by the Management to the service provider. The consultant was therefore collecting and receiving county revenue without due appointment as required by law.
- (iii) The consultants opened and operated accounts with mobile phone service providers for receiving County Executive revenue. This was contrary to Section 119 of the Public Finance Management Act, 2012 on opening, operating and closing of accounts.
- (iv) There was no evidence of testing of the system before commissioning for use, nor evidence of a recommendation from the system's project implementation

committee of readiness to use the system. As a result, the system could have been operationalized with a lot of development flaws leading to a possible lack of integrity and loss of funds.

- (v) At the time of the audit in August 2024, it was noted that the office of the Chief Officer Revenue management, economic planning and ICT services through a letter written to the vendor on 24 June 2024 detailing emerging issues from system implementation minutes highlighted that out of one hundred and forty (140) Point of Sale (POS) machines, 50 were delivered, USSD of Kisiipay *414# was unreliable because of instability network and mobile money holding account registered under a private company and the County Executive staff had right to view only.

In the circumstances, the effectiveness and integrity of the internal controls over revenue collection systems and management could not be confirmed.

985. Weak Information Technology Internal Controls

Review of the Information Technology (IT) internal control environment revealed that the County Executive utilizes various automated systems such as the Integrated Financial Management Information System, and the Integrated Payroll and Personnel Data system, among others, to manage its operations. However, the County Executive lacks Business and IT Continuity Plans, a Disaster Recovery and Offsite Backup Plan, an ICT Capacity Building Training Program, Environmental Controls policies and procedures, an IT Security/Risk Management Policy, and an approved IT Steering Committee to ensure proper functionality and security of ICT systems and resources. In addition, the server rooms do not have humidity and temperature control systems.

In the circumstances, the effectiveness and assurance of the IT controls could not be confirmed.

986. Weaknesses in Internal Audit Function and Audit Committee

Management of the County Executive did not provide any evidence in the form of reports on actions on recommendations of the Internal Auditor's recommendations nor explanations in writing on why the internal audit report had not been acted upon. This was contrary to Regulation 155(2) of the Public Finance Management (County Governments) Regulations, 2015. Further, the Internal audit function was not adequately facilitated to perform its functions such as trainings and field visits. Funds for daily subsistence allowances, vehicle and fuel were unavailable despite the unit having a budget and work plan of activities to carry out during the year. It was also noted that the internal audit function did not exist in the staff establishment. Therefore, the administrative and functional reporting lines for the Internal Auditor could not be established. The County Executive also did not have an Audit Committee in place since July, 2023 when the previous one's tenure expired. The Head of Internal Audit had on three occasions written to the CECM, Finance and Economic Planning on the above anomaly with no action from the Accounting Officer to constitute an Audit Committee.

In the circumstances, the effectiveness and assurance of the internal audit function and the audit committee functions could not be confirmed.

987. Lack of an Approved Staff Establishment and Organogram

The Kisii County Public Service Board had not consolidated an organizational-wide staff establishment showing the current complement data and staffing needs throughout the organization. Similarly, the County Executive lacks an updated organogram showing the organizational structure to illustrate the relationships between departments, superiors, and subordinates clearly.

In the circumstances, effectiveness in the Management of the County Executive affairs could not be confirmed.

988. Staff Acting Without Formal Appointment

Review of the County Executive's operations revealed that positions in middle to high levels of Management were not substantively filled and various members of staff performed duties in acting capacity without formal appointments. The absence of an approved staff establishment hinders the ability to identify the gaps in staffing, especially in the capacity of Deputy Directors and Directors. Similarly, there were four (4) departments without substantive Chief Officers, namely Departments of Agriculture and Co-operative Development, Medical Services, Economic planning and ICT, Infrastructure and Roads.

In the circumstances, effectiveness in the Management of the County Executive affairs could not be confirmed.

989. Adjustments in Supplementary Budget

Review of the original approved estimates against the first and final supplementary budget for the year 2023/2024 revealed that some funds which were originally appropriated for capital development projects were reallocated during the supplementary budgeting process, where seven hundred (700) projects whose total budget amounted to Kshs.1,879,905,409, were completely reallocated, hence no funding or implementation was carried out.

In the circumstances, the effectiveness of management of the budget process could not be confirmed.

COUNTY EXECUTIVE OF NYAMIRA – NO.46

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

990. Compensation of Employees - Variance Between Bank Remittance Records and Payroll

The statement of receipts and payments reflects compensation of employees amounting to Kshs.3,038,348,148 as disclosed in Note 3 to the financial statements. However, review of records revealed unexplained variances between actual amount remitted to the staff bank accounts and net pay amounts reflected in the IPPD Payroll as shown below;

Month	Bank Remittances Net Pay (Kshs)	IPPD Payroll Net Pay (Kshs)	Variance (Kshs)
September, 2023	83,725,988	83,015,265	710,723
May, 2023	82,413,418	80,537,720	1,875,698
November, 2023	70,751,050	80,373,127	(9,622,077)
December, 2023	79,319,587	89,987,016	(10,667,429)
March, 2024	76,313,131	85,601,117	(9,287,986)

In the circumstances, the accuracy and completeness of remittances to employees of Kshs.392,523,174 could not be confirmed.

991. Unsupported Expenditure on Research Studies, Project Preparation Design

The statement of receipts and payments and as disclosed in Note 8 to the financial statements, reflects acquisition of assets amount of Kshs.471,057,068 which includes an amount of Kshs.30,887,200 in respect of research, studies, project preparation, design and supervision. This component further includes an amount of Kshs.13,487,200 relating to imprest issued to different officers to undertake feasibility studies. However, review of the supporting records revealed that the imprest was irregularly issued to various officers on behalf of other members of staff. No explanation was given for failure to issue imprests to individual staff members who should account for it after completion of stated duties and tasks. In addition, there were no acknowledgments from the recipients.

In the circumstances, the accuracy and regularity of the expenditure amounting to Kshs.13,487,200 could not be confirmed.

992. Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.564,648,152 which relates to funds held in thirty (30) bank accounts operated by the County Executive as disclosed in Note 9A to the financial statements. However, a balance of Kshs.124,722,994 held in eleven (11) bank accounts was not supported

with bank reconciliation statements, cashbooks, bank balance certificates and board of survey reports.

In the circumstances, the accuracy and completeness of the balance of Kshs.124,722,994 included in cash and cash equivalents balance could not be confirmed.

Emphasis of Matter

993. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounting to Kshs.7,282,175,903 and Kshs.5,884,949,781, respectively resulting to an underfunding of Kshs.1,397,226,122 or 19% of the budget.

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

994. Undisclosed and Unremitted Pension Contributions

Review of Annex 2 to the financial statements reflects pending accounts payable totalling Kshs.776,379,157 as at 30 June, 2024. However, the balance excluded an amount of Kshs.310,956,550 in respect of un-remitted pension contribution owed to LAPFUND being pension contributions arising from the four defunct Town Council of Keroka, County Council of Nyamira, Town Council of Nyamira and Town Council of Nyansiongo as tabulated in the table below:

Defunct Local Authorities	Principal Amount (Kshs)	Interest (Kshs)	Amount (Kshs)
Town Council of Keroka	20,997,297	38,848,752	59,846,049
County Council of Nyamira	20,045,275	32,021,314	52,066,589
Town Council of Nyamira	64,433,140	117,478,272	181,911,413
Town Council of Nyansiongo	6,111,298	11,021,198	17,132,497
Total	111,587,011	199,369,538	310,956,550

Though Management has explained that the matter was adjudicated in court, a copy of the judgement was not provided for audit.

995. Pending Bills

Annex 2 to the financial statements reflects pending accounts payable balance of Kshs.776,779,157 which includes a balance of Kshs.191,936,374 in respect of recurrent and development expenditure for the previous financial years. Failure to clear pending bills in the year to which they relate distorts the budget of the following year as they constitute a first charge on the budget. Further, the County Executive

may be exposed to risk of incurring interest costs and penalties associated with delays in settling the invoiced bills.

My opinion is not modified in respect of these matters.

Other Matter

996. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, the prior year audit issues remained unresolved as at 30 June, 2024. Management did not provide satisfactory reasons for the delay in resolving the issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

997. Non-Compliance with the Law on Minimum Development Expenditure

The statement of comparison of budget and actual amounts: development reflects actual total expenditure of Kshs.1,423,755,264 which is 25% of the total expenditure amount of Kshs.5,745,164,842 reflected in the statement of receipts and payments. However, the County Executive's Development expenditure was less than the minimum limit of 30% required by Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015 which states that pursuant to Section 107(5) of the Act, the county government actual expenditure on development shall be at least thirty percent in conformity with the requirement under Section 107(2) of the Act.

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

998. Irregularities in Human Resource Management

998.1 Non-Compliance with Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects compensation of employees expenditure amounting to Kshs.3,038,348,148, which constitutes 53% of total revenue of Kshs.5,690,166,473 collected during the year under review. 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 members with the approval of the County Assembly to set a limit on the County Government's expenditure on wages and benefits for its public office not to exceed thirty five percent (35%) of the County Government total revenue.

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

The County Executive had a total staff of three thousand nine hundred and forty-one (3,941) employees. However, the staff comprised of three thousand seven hundred and thirty-four (3,734) or 94% members of staff from one ethnic community. This was contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which

provides that no public establishment shall have more than one-third of its staff from the same ethnic community.

998.3 Non-Compliance with One-Third Rule on Basic Salary Rule

Review of the payroll for the month of June, 2024 revealed that forty-eight (48) officers received net salary which was less than one-third of their respective basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 and Section C.1(3) Human Resource Policies and Procedures Manual for the Public Service, 2016 which provides that the total amount of all deductions which may be made by an employer from the wages of his or her employee at any one time shall not exceed two-thirds of such wages or such additional or other amounts as may be prescribed.

998.4 Delay in Confirmation of Staff in Employment

Review of the payroll for the month of June, 2024 revealed that one thousand seven hundred and seventy-nine (1,779) or 45% of the employees, had been on probation for a period exceeding six (6) months without confirmation. This was contrary to Section 42(2) of the Employment Act, 2007 which states that, a probation period shall not be more than six (6) months but may be extended for a further period of not more than six months with the agreement of the employee.

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

999. Irregular Transfers to the County Assembly

The statement of receipts and payments and as disclosed in Note 5 to the financial statement reflects transfers to other Government entities amounting to Kshs.943,016,579 which includes an amount of Kshs.838,858,168 transferred to the County Assembly of Nyamira, which is equivalent to 15% of the County Government's total revenue of Kshs.5,690,166,473. This was contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which states that the approved expenditure of a County Assembly shall not exceed seven per cent (7%) of the total revenue of the county government or twice the personnel emoluments of that County Assembly, whichever is lower.

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

1000. Lack of Training Needs Assessment

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflect use of goods and services amount of Kshs.573,189,460 which includes training expenses totalling Kshs.39,689,755. However, review of the expenditure schedules revealed that an expenditure of Kshs.2,257,800 was incurred on the provision of catering and full board services in a local hotel. This was during training of County Officers from the Public Service Management and Finance and Planning Departments. However, the expenditure was not supported by training needs assessments. This was contrary to Section H.3 (1) of the Public Service Commission Human Resource manual of May, 2016 which states that training in the Public Service shall be based on Training Needs Assessment. In addition, Section H.3 (3) states that the selection of trainees for all training programmes will be based on identified needs

and will emphasize on training for performance improvement that address individual, organizational and national goals.

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

1001. Delayed Completion of Projects

1001.1 Delayed Completion of Nyamira County Headquarters

As previously reported, the County Executive entered into a contract on 11 July, 2018 with a local contractor for the construction of Nyamira County Headquarters at a contract sum of Kshs.382,970,401. The contract commenced on 31 December, 2018 for a contract period of three (3) years with an estimated completion date of 31 December, 2021. The contract period was later extended by six (6) months to 30 June, 2022. However, on 25 January, 2024, the contractor requested for a further contract extension by twenty-four (24) months and the approval was given by the Contract Implementation Committee on 6 February, 2024 and hence a new project completion date was set for 31 December, 2025.

As at 30 June, 2024, a total of Kshs.233,282,357 or 61% of the contract sum had been paid against 61% of the work done. The delays in the works and the reasons thereof point to poor feasibility studies of the project carried out by the County Government which should have identified these issues at the planning stage of the project.

1001.2 Termination of Contract for Construction

A contract for the construction and completion of Nyamira County Referral Hospital Covid-19 Complex was awarded on 25 September, 2020, to a local firm at a contract sum of Kshs.95,860,834. The contract was to be executed for a period of one (1) year with an initial completion date of September, 2021. Review of the financial records including the payment vouchers and procurement records revealed that the Project Implementation Committee approved the extension of the contract period to 26 August, 2022.

However, the contractor abandoned the site and sued the County Government for failing to settle an invoice of Kshs.6,001,142. Available records indicated that the case was settled out of court and the contract was terminated by mutual consent between the contractor and the County Executive. The contractor was paid a final payment of Kshs.3,525,019 resulting to cumulative payments of Kshs.38,867,928 or 41% of the contract sum. Physical inspection undertaken in the month of September, 2024 revealed that there were no activities at the site. Management did not provide evidence of efforts towards resumption of works.

1001.3 Delayed Completion of Twin Staff House at Motagara Health Centre

The County Executive on 21 March, 2019 awarded the contract for the construction and completion of a twin staff house at Motagara Health Facility to a local firm at a contract sum of Kshs.3,990,155 for a period of 180 days with an initial completion date of September, 2019. Review of records indicated that the Project Implementation Committee approved the extension of the contract period to 31 January, 2023. However, the contractor abandoned site without any reason and the works stalled

resulting in the County Executive terminating the contract on 27 April, 2023. At the time of termination, the contractor had been paid an amount of Kshs.2,180,815 which is equivalent to 55% of the contract sum.

However, though a performance security bond was not listed as a requirement in the tender documents, Management did not explain any measures taken to ensure the County Executive gets compensation from the supplier for breaching the terms of the contract.

1001.4 Delayed Completion of Twin Staff House at Nyakeore Health Centre

The County Executive on 12 August, 2020 awarded a contract for the construction and completion of a twin staff house at Nyakeore Health Facility to a local firm at a contract sum of Kshs.3,441,671 for a period of ten (10) months with an initial completion date of June, 2021. Review of records indicated that the Project Implementation Committee approved the extension of the contract period to 8 January, 2022. At the time of audit in September, 2024, the contractor had been paid an amount of Kshs.1,894,995 which is equivalent to 55% of the contract sum. A physical inspection of the project on 17 September, 2024 revealed that the contractor was not on site and works remained incomplete and the project remained abandoned. However, though a performance security bond was not listed as a requirement in the tender documents, Management did not provide any measures taken to ensure the County Executive gets compensation from the supplier for breaching the terms of the contract.

1001.5 Delayed Completion of Twin Staff House at Kahawa Health Centre

The County Executive awarded a contract on 12 August, 2020 for the construction and completion of a twin staff house at Kahawa Health Centre to a local firm at a contract sum of Kshs.3,600,986 for a period of ten (10) months with an initial completion date of 12 June, 2021. At the time of audit in September, 2024, the contractor had been paid a sum of Kshs.1,885,781 which is equivalent to 55% of the contract sum. A physical inspection of the project on 17 September, 2024 revealed that the contractor was not on site and works remained incomplete and the Project therefore remained abandoned. However, though a performance security bond was not listed as a requirement in the tender documents, Management did not provide any measures taken to ensure the county gets compensation from the supplier for breaching the terms of the contract.

1001.6 Delayed Completion of Twin Staff House at Emenyenche Health Centre

The County Executive on 21 May, 2019, awarded a contract for the construction and completion of a twin staff house at Emenyenche Health Facility to a local firm at a contract sum of Kshs.3,687,645 for a period of one hundred and eighty (180) days with an initial completion date of 21 November, 2019. At the time of audit in September, 2024, the Contractor had been paid an amount of Kshs.1,967,035 which is equivalent to 53% of the contract sum. Physical inspection of the project on 17 September, 2024 revealed that that the contractor was not on site and works remained incomplete and the project therefore remained abandoned. However, though a performance security bond was not listed as a requirement in the tender documents, Management did not provide any measures taken to ensure the County Executive gets compensation from the supplier for breaching the terms of the contract.

1001.7 Delayed Completion of Outpatient Department and Inpatient Wards at Ekerenyo Sub-county Hospital

The County Executive awarded the contract for the construction and completion of the outpatient department and inpatient wards block at Ekerenyo Sub-County Hospital at a contract sum of Kshs.34,589,321, which was signed on the 12 August, 2020. Review of the contract file indicated that the contractor was granted a contract extension period of fifty-two (52) weeks from the 28 October, 2022 to 28 October, 2023, and a further extension of twenty-four weeks from 28 October, 2023 to 30 April, 2024.

However, physical inspection of the project carried out on 10 September, 2024, revealed that the contractor was not on site and no work was ongoing. The report of the implementation committee, indicated that the contractor had been paid an amount of Kshs.12,480,341 or 36% of the contract sum. The contract period had expired and work not completed. Management failed to provide an explanation for the delay in completion of the Project.

1001.8 Delayed Completion of Construction of Eye Hospital at Nyamwetureko

The contract was awarded to a local contractor on 12 August, 2020, at a contract sum of Kshs.35,104,864 for a contract period of twenty (20) months with a completion date of April, 2022. Review of the financial records including the payment vouchers and procurement records revealed that the contractor had been paid cumulative sums of Kshs.15,127,212 translating to 43% of the contract sum.

Review of records indicated that the contractor on 7 March, 2022 requested for an extension of the contract period citing a delay of eight (8) months before the official handing over of the site due to Covid-19 pandemic. The approval for an extension by the Project Implementation Committee through the Project Manager was granted on 20 June, 2023 and the contract period was extended for a period of twenty-four (24) weeks from 30 June, 2023 to 30 December, 2023. However, audit verification on 19 September, 2024 revealed that the works had stalled and the contractor was not on site. Management failed to provide explanation for the delay in completion of the Project.

1001.9 Termination of Contract for Construction of Inpatient Block at Manga Sub- County

A contract was awarded to a local contractor on 28 June, 2018, at a contract sum of Kshs.34,237,845 for contract period of thirty-six (36) weeks with an initial completion date of March, 2019 which was later revised to 25 September, 2023. Review of the financial records including the payment vouchers and procurement records revealed that the contractor had been paid cumulative sums of Kshs.11,510,480 translating to 37% of the contract sum. However, despite several warnings and default notices, the contractor abandoned the site and the works stalled. The contract was subsequently terminated on 4 March, 2024 on grounds of breach of contract. However, Management did not provide any measures taken to ensure the works are completed.

1001.10 Delayed Implementation of the Development of Nyamira County Spatial Plan

Review of records revealed that a contract for the provision of consultancy services for preparation and development of Nyamira County Spatial Plan (2020-2030) was awarded to a local Company at contract sum of Kshs.74,999,973 for a contract period of eighteen (18) months from 15 July, 2020 to 15 January, 2022. The contract period was later extended to 15 December, 2023.

The contractor was to be paid in four (4) phases. A scrutiny of payment records revealed that the contractor had been paid a cumulative sum of Kshs.58,699,974 translating to 78% of the contract sum and had completed 90% of the work and submitted the draft plan.

The draft plan was gazetted vide gazette notice number 14672 dated 18 October, 2023 and members of the public were invited through newspaper notice to give views on the draft plan. However, despite completion of the draft plan and expiry of the public participation window, Management had not forwarded the draft plan to the County Assembly for their input and approval.

1001.11 Delayed Finalization of Nyamira County Valuation Roll

Review of procurement records revealed that a contract for consultancy services on the preparation of Nyamira County valuation roll was awarded to a local firm at contract sum of Kshs.58,000,000 for a period of twelve (12) months commencing 21 July, 2023. The contract was to be paid in four (4) phases.

Inspection of the project revealed that the contractor issued an inception report on 30 August, 2023 and had been paid a total of Kshs.17,400,000 which is equivalent to thirty percent (30%) of the contract amount. However, at the time of the audit in September, 2024, the valuation roll had not been finalised despite the contract period having expired. Review of the budget indicated that the available budget was Kshs.11,600,000 which was not sufficient to complete the project within the contract period hence resulting to delays in completion.

1001.12 Delayed Completion of Tinga Ekoro Water Supply Project

The County Executive awarded a contract for construction and completion of Tinga Ekoro Water supply Project to a local firm at a contract sum of Kshs.6,814,051 as per the contract document signed on 12 April, 2017. The project scope of works included construction of 50 cubic meter sump, construction of a rising main from cubic meter sump, installation, testing and commissioning of a water distribution pipeline, installation of a solar powered submersible pump, construction of a pump house and water kiosk. Review of records indicated that the Project Inspection and Acceptance Committee confirmed the completion of the works in their Project inspection meeting held on 20 June, 2019 and approved the final payment of Kshs.2,389,001 owed to the contractor.

However, a physical inspection carried out on 19 September, 2024, more than five (5) years after the completion of the works, revealed that the water project was still not in

use. Though Management explained that the lack of power connection caused the delay in use of the water supply infrastructure, there was no evidence of any efforts being made to correct the situation. Further, no explanation was given for the failure to install the solar-powered water pump as indicated in the bills of quantities. In addition, the site had invasive and overgrown vegetation which may comprise the integrity of the already completed works.

In the circumstances, the County Executive may not obtain value for money and the expected benefits from the above Projects to the public may not be realized.

1002. Grounded Motor Vehicles and Machinery

Review of documents provided including motor vehicle records provided for audit revealed that the County Executive owns seventy-four (74) grounded motor vehicles of undetermined value. However, the County Executive had not prepared an Annual Disposal Plan of items declared as unserviceable, surplus or obsolete, obsolescence stores, assets or equipment. This was contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer of a procuring entity shall ensure that an annual assets disposal plan is prepared for items declared as unserviceable, surplus or obsolete, obsolescent store, assets and equipment.

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1003. Failure to Hold Statutory Audit Committee Meetings

Review of records provided for the audit revealed that the audit committee held two (2) meetings during the year under review. This was contrary to Regulation 172(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the audit committee to meet at least once every three months.

In the circumstances, the County Executive did not benefit from the assurance, advisory and oversight service from the Audit Committee.

COUNTY EXECUTIVE OF NAIROBI CITY - NO.47

REPORT ON THE FINANCIAL STATEMENTS

Basis for Qualified Opinion

1004. Inaccuracies in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 2 to the financial statements reflects compensation of employees amount of Kshs.17,290,337,584. Included in this amount is basic salaries for permanent employees' expenditure of Kshs.8,239,633,410 which differed from the Integrated Payroll and Personnel Database basic salary amount of Kshs.7,399,700,121, resulting to an unexplained variance of Kshs.839,933,289. Further, the compensation of employees' expenditure increased from an amount of Kshs.11,185,475,652 in 2022/2023 financial year to Kshs.17,290,337,584 in 2023/2024 by Kshs.6,104,861,932 or 55% of the prior year amount, which was not explained.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.17,290,337,584 could not be confirmed.

1005. Discrepancies in Cash and Cash Equivalents

The statement of assets and liabilities as at 30 June, 2024 reflects a balance of Kshs.882,279,608 in respect of bank balances held in thirty-eight (38) bank accounts as disclosed in Note 9A to the financial statements. However, cash books and bank reconciliation statements for eleven (11) bank accounts were not provided for audit. Further, review of the cashbooks, bank statements, bank reconciliation statements and board of survey reports revealed several anomalies as follows:

- (i) The reported nil closing balance in the KRA Revenue Collection Account differs from the closing balance of Kshs.1,478,245,240 as reflected in the cashbook, resulting to a variance of Kshs.1,478,245,240 which has not been explained or reconciled.
- (ii) The Bursary Fund account bank reconciliation statements reflected the closing balance of Kshs.1,920,079 which differed from the cash book balance resulting in an unexplained variance of Kshs.332,747,926. Further, the board of survey report was not provided.
- (iii) The reported nil balance in the revenue account differed from the cash book balance of Kshs.3,481,353. Further, two bank accounts in a commercial bank with closing balances of Kshs.1,459,743 and Kshs.1,767,398 were not disclosed.
- (iv) The KRA revenue collection account had a variance between the reported nil balance and an amount of Kshs.22,042,109 reflected in the bank reconciliation.
- (v) The board of survey report for a KISIP bank account reflects cashbook balance of Kshs.100,000,000 while Note 9 to the financial statements reflects a balance of Kshs.182,395,897, resulting in an unreconciled variance of Kshs.82,395,897.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.882,279,608 could not be confirmed.

1006. Double Payments in Bank Statements

Review of bank statements indicated instances of suppliers receiving payments twice for the same transaction totalling Kshs.140,944,662. However, the payments were not explained. Further, analysis of the system payments revealed instances where a payee received payments to two bank accounts in the year under review for the same purpose indicating possible double payments. The system also revealed different amounts paid to various bank accounts for one payee.

In the circumstances, the propriety and completeness of the expenditure of Kshs.140,944,662 could not be confirmed.

1007. Pending Accounts Payables

Note 15 under Other Important Disclosures to the financial statements reflects amounts of Kshs.36,101,231,403, Kshs.357,275,998 and Kshs.82,335,731,230 in respect to pending accounts payable, pending staff payables and other pending payables all totalling Kshs.118,794,238,631. However, a review of the records provided revealed the following;

1007.1 Misstatement of Accounts Payables

The list of pending bills provided for audit revealed that the County Executive accumulated total pending bills of Kshs.118,315,753,589, which differed from the reported balance of Kshs.118,794,238,631, resulting in an unexplained variance of Kshs.478,485,041. Further, an analysis of list of pending bills revealed that the County Executive settled bills totalling Kshs.2,706,330,152 out of the total pending bills reported, which differ from the reported amount paid within the year of Kshs.2,546,724,587, resulting to a variance of Kshs.159,605,565.

1007.2 Unreconciled Related Entities Balances

Included in the balance are pending bills of Kshs.724,964,162 owed to Kenya Power and Lighting Company. However, records obtained from the Company reflect a receivable balance of Kshs.2,730,901,603 as at 30 June, 2024, resulting to an unreconciled and unexplained variance of Kshs.2,005,937,441.

1007.3 Long Outstanding Pending Accounts Payables

Analysis of the movement of the pending bills revealed that the County Executive reported an opening pending bills balance of Kshs.98,267,457,303 and total paid pending bill within the year of Kshs.2,546,724,587. However, Management did not maintain an ageing analysis of the pending bills. Management indicated that some of the long outstanding bills had remained outstanding for more than 10 years but did not explain why the bills were not settled during the year when they occurred.

Further, analysis of revenue against the total pending bills of Kshs.118,794,238,631 is more than the total County revenue of Kshs.31,006,479,217. This indicates that to clear the pending bills, the County Executive might have to halt the provision of services for over three (3) consecutive years, as the debt is 383% of the County's total revenue.

1007.4 Undisclosed Pending Bills

Analysis of the pending bills listing and payment vouchers provided revealed that a total of Kshs.791,013,848 in pending bills was not reported. This amount is related to outstanding payments to three suppliers comprising Kshs.2,026,320 owed to the Cooperative University of Kenya, Kshs.249,429,979 owed to one supplier for breach of contract for the supply, installation, configuration, customization, testing, commissioning and maintenance of an Integrated City Revenue Management System (ICMS) and, principal and interest amount of Kshs.539,557,549 owing to another supplier awarded by a Court for breach of contract for the hire of heavy equipment and vehicles.

Further, review of legal pending bills revealed that the County Executive had not disclosed all pending legal costs and the County Attorney explained that the process of assessing the pending bills is ongoing as some of the costs date back to the 1980's.

In the circumstances, the accuracy and completeness of the pending bills totalling Kshs.118,794,238,631 as at 30 June, 2024 could not be confirmed.

Emphasis of Matter

1008. Budgetary Control and Performance

1008.1 Under-Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.42,286,936,833 and Kshs.31,871,477,161 respectively resulting in an underfunding of Kshs.10,415,459,672 or 25% of the budget. Similarly, the statement reflects final expenditure amount of Kshs.31,537,870,129 against actual receipts of Kshs.31,871,477,161 resulting in under-utilization of Kshs.333,607,032 or 1% of the budget.

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

1008.2 Over-Commitments

The statement of comparison of budget and actual amounts (recurrent and development combined) for the year ended 30 June, 2024 indicates that the County had an approved final budget of Kshs.42,286,936,833. However, the actual total expenditure during the financial year amounted to Kshs.31,537,870,129 and additional commitments of Kshs.23,073,505,916 disclosed in the statement of receipts and payments and Note 15 on other important disclosures, respectively totalling Kshs.54,611,376,045. This implies that the County Executive

overspent/overcommitted a total amount of Kshs.12,324,439,212 above the approved budget.

1008.3 Low Absorption of Development Expenditure

The statement of receipts and payments reflects total payments amounting to Kshs.31,537,870,129, out of which an amount of Kshs.2,733,867,951 was incurred on development expenditure, representing 9% of the total expenditure for the year. This was contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Government to spend at least 30% of the actual expenditure on development purposes.

1009. Contingent Liabilities

Review of the documents provided revealed that the County Executive had one thousand and eighty-six (1,086) ongoing legal cases which have resulted in several legal claims incidental to its operations whose outcome and financial impact or loss may not be ascertained or quantified. If those contingent liabilities crystalize, the County may be exposed to huge cash outlay which may affect its ability to meet its obligations when they fall due, thus impacting service delivery capacity.

1010. Pending Bills

1010.1 Failure to Settle Pending Bills

Note 15 to the financial statements reflects pending accounts payable totalling Kshs.118,794,238,631. However, Management did not explain why the bills were not settled despite the County Executive having unspent funds amounting to Kshs.1,478,245,241 in the County Revenue Fund.

Further, failure to settle bills during the year to which they relate adversely affects the implementation of the subsequent year's budgeted programs as the outstanding bills form a first charge on that year's budget provisions.

1010.2 Pending Legal Costs

Analysis of legal fees revealed that four (4) advocates out of the total pending legal cases, are owed a total of Kshs.6,269,546,657 which is 29% of the total pending legal fee of Kshs.21,371,004,293. Further, the pending legal fees amounting to Kshs.21,371,004,293 represents 11% of the total County Executive's pending bills. It was noted that most of the Court cases related to issues such as disputes of unpaid claims for goods/works/services completed by contractors, un-procedural termination of employment contracts, irregular procurement processes and poor contract management. The judgements entered against the County Executive resulted to a high cost of litigations and interests.

My opinion is not modified in respect of these matters.

Other Matter

1011. Unresolved Prior Year Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Basis for Conclusion

1012. Anomalies on Compensation of Employees

1012.1 Lack of Substantive County Secretary

The County Executive appointed the County Secretary in an acting capacity effective from 11 April, 2023 for six (6) months. Upon the expiry of the six (6) months, the officer's acting authority was extended until 12 March, 2024. As at the time of audit in November, 2024, the County Secretary's Office did not have a substantive office holder. Further, the officer in the acting position continued acting for more than six months.

1012.2 Irregular Engagement of Casual Workers

The County Executive engaged revenue casual workers on a contract of service for a renewable period of three (3) months and other casuals in the Health, Mobility and Environment departments. However, there were no records of advertisements, applications shortlisting, interviewing or appointment letters or contracts maintained by the Human Resource Directorate. This was contrary to Sections 66, 67 and 68 of the County Governments Act, 2012.

Further, the casuals were paid a monthly salary of Kshs.25,000 with a cumulative amount of Kshs.4,500,000, not subjected to statutory deductions such as PAYE as required by the law.

1012.3 Irregular Payments to Nairobi Metropolitan Services Staff

The County Executive paid an amount of Kshs.146,277,985 in respect of payment for defunct Nairobi Metropolitan Services (NMS) salaries and arrears due to the staff after the lapse of their contracts. However, the salaries were paid outside the IPPD system contrary to the guidelines on salary payment. Further, after execution of the Deed of Transfer on 25 February, 2020, Nairobi City County Executive seconded five thousand nine hundred and thirty-four (5,934) staff to Nairobi Metropolitan Services for two years. However, at the end of the Deed of Transfer tenure, Nairobi Metropolitan Services handed back eight thousand four hundred and thirty-three (8,433) staff to Nairobi City County Executive, implying that two thousand four hundred and ninety-nine (2,499) employees were recruited by the NMS, contrary to the provisions of

Sections 5.6 and 5.7 of the Gazette Notice No. 1609 dated 25 February, 2020 on Deed of Transfer.

1012.4 Irregular Payment of Salary to Dismissed Staff

Review of human resource documents indicated the following anomalies;

- (i) Thirteen (13) staff dismissed were irregularly paid salary backdated for a period of up to 2 years. Justification and the cumulative amount paid for the period were not provided or explained.
- (ii) The County Executive did not stop salary payments to these staff within a period of ten (10) days contrary to the provision of the Public Service Human Resource Policy, 2016.
- (iii) Report of absence from duty without leave or reasonable or lawful cause by the immediate supervisor to the Human Resource Department was not submitted within the stipulated timeline of 24 hours of no trace.

1012.5 Irregular Recruitment of County Staff

The County Executive recruited three thousand eight hundred and thirty-four (3,834) staff during the financial year under review. However, the recruitment was not supported with a recruitment plan, advertisement, long list and shortlists, interview reports and score sheets. Therefore, it was not possible to establish how the recruited staff were engaged and whether vacancies existed in the establishment. Further, review of files of the recruited staff indicated the following anomalies:

- (i) An officer was appointed as Director of Infrastructure and Information Security despite lacking academic qualifications of a Masters Degree in Computer Science or any other ICT-related discipline from recognised institution and a strategic leadership development course lasting not less than four weeks from a recognised institution.
- (ii) Recruitment was done for cadres that could not be traced in the staff establishment, scheme of services and IPPD. These included Chief Executive Officers for City County Referral Hospitals. In addition, there was no clarity on the minimum requirement of the grade.
- (iii) Another officer was appointed Assistant Director of Infrastructure and Information Security but had not served in the grade of Principal Information Communication Technology (J/G N) or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the personal file indicated the Officer was a computer programmer 1 J/G N but lacked a master's degree in Computer Science or any other/ICT-related discipline from a recognized Institution.
- (iv) Another officer appointed Assistant Director Infrastructure and Information Security job group P but had not served in the grade of Principal Information Communication Technology (J/G N) or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the

personal file indicated the Officer was a system analyst job group L and lacked a master's degree in Computer Science or any other/ICT-related discipline from a recognized Institution.

- (v) Also, another officer appointed as Senior ICT Officer had not served in the grade of Information Communication Technology Officer I or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years as required in the scheme of service, rather the Officer was serving as a security warden in job Group 3 D.
- (vi) An officer was appointed Deputy Director of Cultural Development (Job Q) but had not served in the grade of Senior Assistant Director of Culture or a comparable and relevant position for a minimum period of three years since he was appointed as Assistant Director Culture Development on 28 April, 2022. Further, the staff did not have masters in the following; cultural studies, anthropology, sociology, history or any relevant discipline.
- (vii) An officer appointed Principal ICT Officer in May, 2023 had not served as Chief Information Communication Technology Officer or in an equivalent and relevant position in the Public Service for a minimum period of three (3) years. Review of the personal file revealed that the staff was appointed as a systems analyst (3) JG on 29 February, 2024. Further, review of payroll indicated that within the year, the staff changed job groups 3 times.

1012.6 Late Remittance of Staff Deductions

Review of the payment vouchers provided revealed that the County Executive paid an amount of Kshs.100,000,000 being payment of unremitted staff deductions to NCCG third parties and staff pension contribution. In addition, the County Executive paid an amount of Kshs.100,000,000 in respect of payment to the Kenya Revenue Authority being payment for tax arrears. However, it was not established why the County had failed to remit the deductions when they fell due as required by the Income Tax Act.

1012.7 Payroll Analysis

1012.7.1 Employees Sharing Bank Accounts

Review of the bank remittance for April, May and June, 2024 revealed that seven thousand, seven hundred and seventy-seven (7,777), six thousand, one hundred twenty-three (6,123) and six thousand, eight hundred and three (6,803) officers respectively, shared the same bank accounts, agent code and branch code.

1012.7.2 Duplicate Names

Review of the bank remittance for August, 2023, revealed that seventy-four (74) officers shared the same name.

1012.7.3 Officers Active in the Payroll with No Pay

Analysis of the payroll indicated that there were six (6) officers in the payroll but without salaries.

1012.7.4 Officers Whose Bank Remittances were Higher than their Net Pay

Analysis of the net salaries for County Executive officers compared with actual remittances to the bank revealed that some officers received a higher salary than what was computed as their net earnings. The total overpayment for the year under review amounted to Kshs.5,395,449.

1012.7.5 Officers Paid Gross Salaries Higher than the SRC Recommendation

Analysis of gross salaries for County Executive staff to the subject criteria which set the maximum budget ceiling for the financial year at Kshs.3,791,451,767 and maximum gross salaries for the various job groups revealed some officers were paid gross salaries higher than the maximum recommended amounts for their job groups resulting to an overpayment of Kshs.8,432,252.

1012.7.6 Officers not Deducted Pay As You Earn

Analysis of payroll data against the statutory deduction revealed some officers whose statutory deductions including Pay As You Earn (PAYE) were not deducted from their salaries. The officers earned a total of Kshs.148,642,687 from which no taxes were deducted during the year under review.

1012.7.7 Variances between IPPD Payroll Computation and Payment Vouchers

Comparison between gross salaries processed through IPPD and payment voucher amounts for the year ended 30 June, 2024 revealed an unexplained variance of Kshs.1,393,234,865.

1012.7.8 Irregular Payment of Stipend and Salaries

Review of the manual payrolls obtained from the Health Department indicated that allowances totaling Kshs.317,156,560 were paid to the Community Health Volunteers. However, a comparison of the manual payroll data with IPPD revealed that sixty-two (62) National Identity numbers were used to pay officers in both the IPPD and health workers stipends list amounting to Kshs.10,406,097 and Kshs.18,455,500 respectively. The basis for the payment was not provided.

1012.7.9 Irregular Alteration of Employees' Details in IPPD

Analysis of basic salary paid to officers during the period under review, revealed the following anomalies in staff details:

- (i) Some officers' basic salary changed multiple times during the year with some changing 6 times.
- (ii) Three thousand, two hundred and sixteen (3,216) officers changed job groups more than once, twenty-four (24) of whom changed job groups three (3) times.
- (iii) Three (3) officers had their payroll numbers attached to different National Identification numbers at various times of the year.

- (iv) Twenty-four (24) officers had their payroll numbers attached to different Tax-pins at various times of the year.
- (v) One hundred ninety-seven (197) officers had their birth dates changed multiple times.

1012.8 Irregular Payment of Arrears

Analysis of the arrears paid during the year revealed various officers were paid in arrears for earnings not ordinarily earned while some officers were observed to have been earning arrears for the entire year.

1012.9 Irregular Payment of Transport Allowances

Analysis of the transport and commuter allowance paid revealed that two (2) officers were paid commuter allowance totalling Kshs.14,000 in accordance to the SRC recommendations were also paid transport allowance in arrears amounting to Kshs.48,690. However, the rate used for the arrears paid could not be determined.

1012.10 Non-Compliance with Law on Mandatory Retirement

Review of the Integrated Payroll and Personnel Database (IPPD) revealed that seventeen (17) officers who had attained the mandatory retirement age of sixty (60) years were still in service as at 30 June, 2024. This was contrary to Regulation 70(1)(a) of the Public Service Commission Regulations, 2020 which states that the mandatory retirement age in the public sector shall be sixty (60) years. The officers were paid emoluments totalling Kshs.1,704,722 in the year under review.

1012.11 Non-Remittance of Statutory Dues

Analysis of the payroll revealed that during the year under review, the County recovered from staff salaries statutory dues totalling Kshs.3,098,568,562 in the form of PAYE, NSSF, Housing Levy, NHIF and HELB. However, there was no evidence of remittance of the deductions to the relevant authorities in the County Executive's bank statements and other supporting documents on remittance were provided.

1012.12 Non-Compliance with Fiscal Responsibility Principles

Note 2 to the financial statements reflects compensation of employee expenditure totalling Kshs.17,290,337,584. The amount represents approximately 56% of the total revenue of Kshs.31,006,479,217. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which states that the expenditure on wages and benefits for its public officers should not exceed thirty-five (35) percent of the county government's total revenue. As a result, the high wage bill may not be sustainable.

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

1013. Avoidable Interest and Penalties

Review of legal pending bills and documents provided for audit revealed an expenditure amounting to Kshs.180,712,573 in respect of interest and penalties

awarded to a contractor by High Court of Kenya for non-payment of Kshs.358,844,976 with an interest of 12% at commercial rate arising from the judgement and decree in Civil Suit which was delivered on 20 December, 2023 for garbage collection and hire of heavy machinery equipment services offered between 4 July, 2018 to 4 August, 2022.

However, Management breached the contract terms by failing to perform its obligation of paying for the services rendered. The contractor provided services valued at Kshs.948,986,822 for the period between 5 July, 2018 to 4 July, 2019, out of which Management settled an amount of Kshs.590,141,917 leaving an outstanding amount of Kshs.358,844,976 which was subject of the suit. The case was filed by the contractor on 3 March, 2023 seeking payment for a sum of Kshs.539,557,549.

Further, Management paid an amount of Kshs.24,304,000 which was awarded by the Court to thirteen (13) employees of the County due to unfair dismissal. The award incurred an amount of Kshs.10,080,000 as interest of 12% per annum for delayed payment.

The costs would have been avoided had Management put in place measures to ensure prompt payments of pending bills. In addition, Management has not provided payment plan to avoid further escalation of the interest and penalties.

In the circumstances, the regularity and value for money on interest and penalties on delayed payments totalling Kshs.190,792,573 could not be confirmed.

1014. Irregularities in the Management of Executive Scholarships and Ward Bursaries

1014.1 Lack of Bursary and Scholarship Applications and Vetting

Review of sampled application forms indicated that the committee recommended some applicants for the executive scholarship amounting to Kshs.3,700,615. However, the applicants could not be traced in the list of beneficiaries. Further, Management did not provide Wards Bursary Committee deliberations minutes and their recommendations for individual vetted cases and a list of the applicants forwarded to the Executive Scholarships and Bursary Processing Committee.

In addition, some scholarship forms for the successful applicants did not have the committee's recommendations and Head Teacher's recommendations as required by the guidelines. It was also noted that the County Executive issued scholarships and Ward bursaries to forty-three (43) beneficiaries totalling Kshs.2,203,723. However, the audit could not confirm whether the beneficiaries were indeed deserving.

1014.2 Lack of Acknowledgement for Bursary Disbursements

The County Executive disbursed Executive Scholarship to five thousand, three hundred and thirty-nine (5,339) students in the financial year 2023-2024 and also disbursed Ward bursaries to twenty-nine thousand, seven hundred and seventy-five (29,775) students in term III amounting to Kshs.301,400,000 comprised of Kshs.170,000,000 for the Ward bursary and Kshs.131,400,000 for the Executive bursary respectively. However, the benefitting institutions did not provide

acknowledgement receipts or letters to confirm that the bursary reached the intended beneficiaries.

In the circumstances, the regularity of bursaries and scholarship payments during the year could not be confirmed.

1015. Failure to Prepare and Submit Separate Fund Financial Statements

During the year under review, Management did not prepare and submit financial statements for the funds whose enabling legislation requires that they prepare books of account for audit. The Funds include; the Disaster and Emergency Fund, Nairobi City County Betting, Lotteries and Gaming Control Board, Ward Development Fund, Pumwani Maternity College of Nursing and Midwifery and Nairobi City County Revenue Authority. However, the Fund's operations were combined together with the Nairobi City County Executive's financial statements. This was contrary to Section 47(1) of the Public Audit Act, 2015.

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

1016. Irregular Insurance Payments

1016.1 Provision of Work Injury Benefit Act (WIBA), Group Personal Accident and Employer Liability

The County Executive awarded insurance services for the cover of WIBA, GPA and employer liability to a Company at a contract sum of Kshs.83,714,336. However, review of records in respect of the payment for an amount of Kshs.83,714,336 revealed the following anomalies;

- (i) The schedule of requirements stated that all policies in the tender commenced on 1 November, 2023. However, the contract agreement was signed on 1 December, 2023 with the terms of the contract becoming binding only after the contract is signed.
- (ii) The insurer was expected to provide training, transport, accommodation and other related costs towards the orientation of the County Executive staff on topics related to the cover within one month after the commencement of the cover. However, there was no evidence to indicate that the training took place.
- (iii) The contract obligated the insurer to settle all fully documented claims within fourteen (14) days from the date of submission. However, there was no evidence provided to confirm how claims arising were settled and whether the settlement complied with the stipulated timelines. In addition, the monthly claim reports were not provided for audit review.
- (iv) The insurer covered a total of thirteen thousand, one hundred and thirteen (13,113) County staff. However, during the year, there were newly recruited staff and those who retired from the service. The audit could not confirm how these were incorporated into the existing cover with the insurer.

1016.2 Provision of Comprehensive Medical Insurance Cover

During the year under review, the County Executive procured medical insurance services for its staff. However, there was no evidence provided indicating that the service provider met various requirements that ought to have been met by the insurer after signing the contract document such as the creation of a joint committee of seven (7) members, monthly reports from the committee, training and sensitization reports of at least 50% of the staff members and identify at least four (4) reputable rehabilitation centers to handle employees.

1016.3 Provision of General Insurance Services

The County Executive procured insurance services for the provision of general insurance services at a contract sum of Kshs.129,713,854 and a contract agreement signed on 14 May, 2024 for one year. However, review of payment documents revealed the following anomalies:

- i. Comparison between the tender document schedule and the list of vehicles revealed a variance of thirty-one (31) vehicles as shown below:

No	General Cover	No of Vehicles in Schedule	No. of Vehicles in Attached List	Variance
1	Commercial vehicles - comprehensive cover	41	39	2
2	Commercial vehicles - third party	37	31	6
	Private vehicles comprehensive cover	129	110	19
4	Private vehicles third party cover	19	15	4
	Total Vehicles			31

- ii. The County Executive acquired additional vehicles during the financial year under review. However, the additional cover and valuation reports for the new motor vehicles were not provided for audit review.

1016.4 Irregular Direct Procurement of Insurance Cover

The County Executive awarded a contract for the provision of comprehensive medical insurance cover for the defunct Nairobi Metropolitan Services staff for the financial year ended 30 June, 2023 at a contract sum of Kshs.568,046 on 4 April, 2023 for a period of four months. The contract covered seven thousand, five hundred and twenty-one (7,521) staff both seconded and contracted Nairobi Metropolitan staff. However, the Management had an existing contract with the insurance company from 29 November, 2022 at a contract price of Kshs.648,856,505. No explanation was given on why the County Executive signed a new contract for the provision of comprehensive medical cover with the same insurance company when there was an existing active

contract. In addition, the procurement records for both contracts were not provided for audit.

In the circumstances, value for money on the expenditure used on insurance services could not be confirmed.

1017. Management of Motor Vehicles

1017.1 Ratio of Vehicles Against Available Drivers

Records from Management indicated that the County had eight hundred and eighty-five (885) County vehicles, out of which four hundred and eighty-three (483) were considered operational and four hundred and two (402) are non-operational. Review of the County's payroll as at 30 June, 2024 revealed that the County had a total of three hundred and thirty-eight (338) drivers. This is an indication that, one hundred and forty-five (145) vehicles remained idle throughout the year without drivers assigned to them. Further, Management indicated that some vehicles and equipment are operated by more than one driver, such as ambulances, fire engines and some heavy equipment. However, the schedule of assignment of the drivers to the respective vehicles and the controls in place were not provided for audit.

1017.2 Grounded Vehicles

Records provided by Management revealed that the County had a total fleet of eight hundred and eighty-five (885) vehicles out of which four hundred and two (402) County vehicles were grounded. However, Management did not provide records to confirm the dates when the assets were grounded and a disposal plan for the assets. This was contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the Accounting Officer of a procuring entity to ensure that an annual assets disposal plan is prepared for items declared as unserviceable, surplus, or obsolete, obsolescence stores, asset or equipment. Management has not taken steps to dispose of grounded vehicles to prevent further loss arising from wear and tear and repairing of unserviceable vehicles.

Further, records provided indicated that nineteen (19) vehicles were involved in road accidents while six (6) vehicles were written off by the insurer. However, evidence that the insurance company paid for the claims lodged in respect of the motor vehicles was not provided for audit.

1017.3 Motor Vehicles held in Private Garages

Records provided by Management indicated that fourteen (14) vehicles were detained in private dealers and garages due to outstanding bills totalling Kshs.36,223,235. Further, the following observations were noted;

- (i) Job cards, Local Service Orders with details regarding repairs done on the vehicle, inspection reports, and contracts between the County and the suppliers were not provided for audit review.

- (ii) It was indicated that the private garages were holding the County vehicles due to non-payment, however, the processed payment vouchers, the invoices and details of work done were not been provided for audit.
- (iii) Review of reports on the County fleet held in private dealers and garages indicated that one of the dealers held three (3) County vehicles. However, communication from the dealer indicated that the dealer had no records of such vehicles.

1017.4 Irregular Procurement of Motor Vehicle Prime Mover

The County Executive awarded a contract for the purchase of a motor vehicle prime mover 6x4, complete with an articulating trailer with a fixed container box body and mobile music recording studio at a contract sum of Kshs.39,793,429. However, the contract agreement was not provided for audit review. Further, it was established that, whereas the prime mover was delivered on 28 April, 2024, it was burned down two months after delivery. Although Management explained that it had lodged a claim with the insurer no correspondences were provided indicating that compensation for the loss had been received.

In the circumstances, the value for money and propriety of the expenditure of on purchase and maintenance of motor vehicles could not be confirmed.

1018. Delayed Payment of Taxes

The County Executive paid a total of Kshs.330,689,333 to the Kenya Revenue Authority (KRA) for arrears of withholding VAT and income taxes. However, there was no acknowledgement of the payment from KRA. Further, the County did not take advantage of the tax amnesty granted by the Finance Act, 2023 programme where waivers of penalties and interest were granted for principal amounts owing up to December, 2022. Failure to remit taxes on time contravenes The Income Tax Act, which may result in fines and penalties.

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

1019. Irregular Procurement of Services

The County Executive incurred expenditure totalling Kshs.16,417,080 on various procurements of food, décor, provision of support and logistics services which included reflectors, prayer mats, hand washing points, invitation cards, LED lighting and photography. Although Management indicated that request for quotations method of procurement was used to procure the items, no evidence was provided indicating that requests for quotations were issued to at least three suppliers and that the bids were subjected to the process of quotation opening, evaluation and award.

Further, the County Executive incurred expenditures amounting to Kshs.7,591,600 and Kshs.16,875,280 for public participation expenses and provision of conference and accommodation services respectively. However, the payments were not supported with documents such as signed attendance lists by participants, advertisements, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committees and evidence of

regret letters sent to the unsuccessful bidders and acceptance and notification of award. This was contrary to Regulation 78(1) of the Public Procurement and Asset Disposal Regulations, 2020.

In the circumstances, the regularity of expenditure totalling Kshs.40,883,960 incurred on public participation and provision of conference services could not be confirmed and Management was in breach of the law.

1020. Irregular Hire of Heavy Machinery

1020.1 Non-Compliance with Contract Terms

The County Executive paid a contractor an amount of Kshs.175,063,145 in respect of the hire of heavy equipment. However, review of records for the hire of three (3) heavy equipment revealed that services rendered were charged at Kshs.13,500 per hour instead of the contract amount of Kshs.10,000 per hour resulting in overpayment of Kshs.2,684,500. Further, review of payment vouchers revealed variances in actual hours between the payment schedule detail and the submitted invoices, resulting in an excess payment of Kshs.6,562,063.

In addition, the number of trips to the dumpsite and the registration number of vehicles were not indicated. There was also no entry and exit log indicating time and movement including departure time from the parking area to start of work, arrival time and departure time from the officially designated discharge location as well as time sheets to determine the number of hours the garbage trucks worked in a day.

1020.2 Unconfirmed Work Hours for Hire of Machinery at Dandora Dumpsite

Review of various payment vouchers in respect of the hire of heavy equipment, plant and heavy machinery at Dandora Dumpsite for April, 2023 totalling Kshs.72,897,000 revealed the following anomalies;

- (i) The contract agreement number NCC/ENV/ONT/077/2022-2023 signed by a contractor indicated that it was signed on 18 April, 2023. However, analysis of the payment schedules indicates that vehicles were already on site and billed the County Executive for hours worked from 17 April, 2023 before the contract was signed.
- (ii) Records provided for audit indicated that billing was based on daily odometer-hour readings of the machines at the start of work and stop of work for two (2) daily shifts of eight hours each. It was observed that these machines worked non-stop per shift, casting doubt on the authenticity of the records, given that there were no downtimes recorded for fueling or even the drivers taking a break at any point.
- (iii) Whereas the County Executive awarded twenty-two (22) bidders for hire of heavy machinery under framework agreement, the audit could not establish how they were engaged whenever need to hire machinery arose. There was no evidence of a local purchase order raised, defining the type of machinery needed and the duration of work.

- (iv) There was no evidence of needs assessment done at the Dandora Dumpsite to determine the number of heavy machinery needed at the site per day to supplement those already running and owned by the County. This would inform the number of suppliers to engage at any given time to meet the existing gap.
- (v) Records provided for audit indicated that the machines worked both day and night. This constituted two shifts of eight (8) hours daily. There was no record of the quantity of garbage dumped daily to justify the need for all the machines to be engaged both day and night non-stop.
- (vi) There was no corroborative evidence provided to indicate that the machines worked for the hours paid for. The odometer measurement and records are susceptible to manipulation and therefore, the County Executive should have included records of fuel consumption per day per machine.

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

1021. Irregular Purchase of Office Equipment

Review of various payment vouchers in respect of the purchase of office furniture and general equipment totalling Kshs.29,650,723 identified the following irregularities;

- (i) Records supporting the payments indicated that the items were procured through requests for quotations. However, this was not supported by evidence of quotations sent to registered suppliers and receipt of quotations from at least three suppliers to ensure effective competition as prescribed in Section 106(2)(b) of the Public Procurement and Asset Disposal Act, 2015.
- (ii) The payment was not supported with requisite procurement documents such as tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committees, letter of award and contract agreement between the County Executive and the supplier contrary to Regulation 78(1) of the Public Procurement and Asset Disposal Regulations, 2020
- (iii) The user department did not include specifications for the computer, laptops and printers, among other items to be procured. Therefore, the audit could not establish whether the items delivered met user specifications.
- (iv) The office equipment was delivered after the validity period of the local purchase order of 30 days.

In the circumstances, the regularity and value for money on the expenditure of Kshs.29,650,723 for the purchase of office equipment could not be confirmed.

1022. Irregular Procurement of Garbage Skips and Skip Loaders with Complementary Skips

Review of procurement records in respect of a contract for the supply and delivery of one hundred and twenty (120) garbage skips at a contract sum of Kshs.51,600,000

with a contract period of sixty (60) days and local purchase order issued on 25 April, 2023 revealed that there was no evidence of market survey carried out to inform the decision making on the procurement of a unit of garbage skip at Kshs.430,000. As at the time of audit in October, 2024, only forty-one (41) garbage skips had been delivered and the contract validity period had already lapsed.

In addition, review of payment voucher in respect of an amount of Kshs.456,825,750 paid for the supply and delivery of twenty-seven (27) large tippers and ten (10) skip loaders with complementary skips revealed that the contract was signed on 19 May, 2023 while two (2) local purchase orders were issued on 20 April, 2023, indicating that the orders were placed before the contract was signed. In addition, the pre-delivery inspection was done on 10 July, 2023, however, there was no evidence of post-delivery inspection.

In the circumstances, the value for money for the expenditure totalling Kshs.508,425,750 could not be confirmed.

1023. Irregular Payment for Consultancy for Development of the County Tourism Policy

Review of records in respect of the payment of Kshs.4,999,999 for the development of the County Tourism Policy revealed the following anomalies;

- (i) The professional opinion stated that the tender was advertised in the PPIP portal on 23 February, 2024 and opened on 28 February, 2024. This did not meet the minimum period of 7 days prescribed in the Public Procurement and Asset Disposal Act, 2015. Further, there was no proof that the tender was advertised, therefore casting doubt on how the bidders were identified.
- (ii) It was observed that whereas the local purchase order was issued on 13 March, 2024, other procurement documents which include notification for award, professional opinion, and acceptance of award were also issued on the same day. This was contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states 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.
- (iii) An evaluation report summarizing the results of the preliminary, technical and financial evaluation and signed by all evaluation committee members was not provided for audit. In addition, a copy of the contract was not provided as one of the supporting documents for payment.
- (iv) A copy of the reports and policy developed was not attached as evidence of work done.

In the circumstances, the regularity of the expenditure totalling Kshs.4,999,999 incurred on the development of the County Tourism Policy could not be confirmed.

1024. Irregular Procurement for Consultancy Service for Sub-Sector Strategic Plan

During the year under review, an amount of Kshs.4,571,100 was paid to a local consultant for the development of a 10-year subsector Strategic Plan contract signed on 6 May, 2024 for a contract sum of Kshs.11,399,991. However, the professional opinion was not supported by an evaluation report signed by all the evaluation committee members.

Further, the tender opening committee consisted of five (5) members out of whom, four (4) members were part of the technical proposal evaluation committee and financial opening and evaluation committee. Therefore, the constituted evaluation committee did not comply with the requirement of Regulation 28(2) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the Accounting Officer of a procuring entity shall appoint an evaluation committee to carry out the technical and financial evaluation of the tenders or proposals.

In the circumstances, the value for money for the expenditure of Kshs.4,571,100 could not be confirmed.

1025. Anomalies in Routine Maintenance of Motor Vehicles

Review of various payment vouchers in respect of routine maintenance of motor vehicles totalling Kshs.7,280,357 revealed the following anomalies;

- (i) The payment was not supported with requisite procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing opening, evaluation and inspection and acceptance committee and evidence of regret letters sent to the unsuccessful bidders. This was contrary to Regulation 78(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an evaluation report to be prepared as stipulated under Section 80(4) of the Act.
- (ii) The payment was not supported with records of goods received, statements showing receipt of the returned spare parts after repair and maintenance of the vehicles.
- (iii) The Logbooks (GP55) for services, repairs and maintenance undertaken were not provided for audit. Therefore, the audit could not determine whether the record of work done was posted in vehicle logbooks or work tickets.
- (iv) Efficiency analysis reports for county vehicles were not provided for review.

In the circumstances, the value for money for the expenditure amount of Kshs.7,280,357 could not be confirmed. In addition, Management was in breach of the law.

1026. Irregular Procurement for Construction and Civil Works

1026.1 Payment for Stalled Construction of Perimeter Wall in Mji wa Huruma

Review of procurement records revealed that the County Executive paid an amount of Kshs.4,870,690 to a company for the construction of a perimeter wall in Mji wa Huruma Home for the elderly persons. The contract was signed on 4 May, 2015 at a contract sum of Kshs.16,884,600 with a completion period of twenty (20) weeks beginning from 10 September, 2015. A valuation of works dated 27 November recommended payment of Kshs.4,870,690. However, the amount remained unpaid until June, 2024. Inspection of the project by the internal audit unit indicated that the structure had developed cracks. However, there was no evidence of re-inspection, supported by a technical report on the extent of damage and the nature of repair works done.

1026.2 Rehabilitation of Lot 13 Roads in Eastleigh Area, Nairobi (Athumani, Kipande, Mwende Road, Blue Estate and Kitui Village)

Review of procurement records revealed that a contractor was awarded a contract for the rehabilitation of roads in Eastleigh Area (Athumani Kipande Road, Mwende Road, Blue Estate Road and Kitui Village Road) on 11 November, 2021 at a sum of Kshs.80,013,320. An amount of Kshs.26,192,358 was paid to the contractor during the year under review. Although, the completion period was ten (10) months, the works did not commence until 21 June, 2023. There was no explanation for the delay in the commencement of works given that Nairobi Metropolitan Services (NMS) handed over all previously transferred functions back to the County Executive on 30 September, 2022. Therefore, the contract period lapsed before the commencement of work.

Further, the payment was not supported with procurement documents such as the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both opening and evaluation committees and evidence of regret letters sent to the unsuccessful bidders. In addition, review of the performance security indicated that the contractor was required to pay only Kshs.800,133, constituting only 1% of the contract sum as a performance guarantee. This was not commensurate with the value of works and contract sum. Further, the inspection reports did not give a separate technical evaluation of each single road. Therefore, it was not possible to assess the percentage of work completed at the time of payment.

In addition, review of various payment vouchers in respect of construction and civil works totalling Kshs.86,011,253 revealed various gaps which include non-compliance with procurement laws and failure to attach relevant documents in support of the payments. This was contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed.

1026.3 Irregular Payment for Rehabilitation of Roads in Industrial Area

The County Executive paid an amount of Kshs.140,313,872 to various contractors for the rehabilitation of roads in the Industrial area. However, the contracts outlined the works procured by Nairobi Metropolitan Services and related to the procurement plan

for the year 2020/2021 which were signed on various dates in August, 2021 with a contract period of eight (8) months. Therefore, the works were expected to be completed by May, 2022. However, the contract period lapsed without commencement of works and there was no evidence of contract extension approval. Whereas the deeds of novation were signed on 18 April, 2023, the audit could not establish why the works took over two (2) years to be completed after the signing of the contract and issuance of instructions to commence work.

Further, the payments were not supported with requisite procurement documents which include, the advertisement, tender opening minutes and register, tender evaluation committee reports, letters appointing both Opening and Evaluation Committee and evidence of regret letters sent to the unsuccessful bidders. This was contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015, which requires an Accounting Officer of a procuring entity to keep records for each procurement for at least six (6) years after the resulting contract has been completed or, if no contract resulted after the procurement proceedings were terminated.

In the circumstances, the regularity and value for money on the expenditure of Kshs.140,313,872 could not be confirmed.

1027. Irregular Award of Tenders for Construction and Civil Works Projects

During the year under review, the County Executive awarded contracts totalling Kshs.1,881,496,045 for various construction and civil works projects. However, review of the supporting documents for works for payments amounting to Kshs.179,621,620 revealed that the contracts were awarded without placing advertisements in the public procurement portal as required by the law.

As a result, it was impossible to confirm how the evaluated contractors were invited to tender. This was contrary to Section 96(1) and (2) of the Public Procurement and Asset Disposal Act, 2015 which states that the Accounting Officer of a procuring entity shall take such steps as are reasonable to bring the invitation to tender to the attention of those who may wish to submit tenders.

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

1028. Irregular Procurement of Electrical Materials for Street Lighting

1028.1 Supply and Delivery of Aluminium Round Conductors

The County Executive paid an amount of Kshs.38,442,000 for the supply and delivery of aluminum round stranded compressed conductors procured through framework contracts. However, the specifications from the user department and the local purchase order issued to the supplier were different from what was delivered. The delivery note from the supplier indicated that materials of specification 2x16mm ABC aluminum round stranded compressed conductor while the LPO stated 3x16mm were delivered on 16 May, 2024 and the inspection and acceptance certificate being issued on 06 June, 2024 despite the delivered materials not meeting the required specifications.

Further, the framework contract agreement was signed on 17 January, 2024, which was not within the tender validity period of 150 days from the date of opening of tender which was on 7 March, 2023 as indicated in the tender register. Therefore, the LPO was irregularly issued before the signing of the contract. In addition, the signed contract was invalid as it was issued before the lapse of fourteen days from the date of notification, contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015.

Field verification of electrical materials revealed that cables supplied by a general merchant and received in the store on 16 May, 2024 and inspected on 06 June, 2024 were missing from the store due to pilferage incidences. As at the time of audit in November, 2024, the matter was still under investigation.

In addition, the local purchase order was issued on 22 February, 2024. However, the goods received note or stores statement number 5578 indicated that the materials were received at the store on 16 May, 2024 while inspection certificate number 2255 was issued on 6 June, 2024 indicating that inspection of the materials took place three (3) weeks after delivery, beyond the stipulated validity period of local purchase orders of 30 days from the date of issue.

1028.2 Supply and Delivery of Assorted Electrical Materials for Street Lighting

Similarly, review of various payments totalling Kshs.239,472,000 for the supply and delivery of assorted electrical materials for street lighting under framework contract revealed that the materials requisitioned were received beyond the stipulated local purchase orders validity period of 30 days from the date of issue, withholding taxes were not deducted from the payments made and there was no evidence of market survey carried out to inform the placing of orders. Further, in some instances, there was no evidence of acceptance of the award and signed framework contract agreement between the contractor and the County Executive.

In addition, one instance, the framework contract agreement was signed on 15 November, 2023, about nine (9) months after the date of opening of tender on 7 March, 2023, beyond the tender validity period of 150 days as indicated in the tender register. The procurement of electrical materials contravened Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

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

1029. Irregular Supply and Delivery of Road Materials

1029.1 Supply and Delivery of Quarry Chips

During the year under review, the County Executive entered into a framework contract signed on 24 November, 2024 for the supply and delivery of 5000 tonnes of quarry chips for an amount of Kshs.15,000,000 which was paid to the suppliers. However, the summary of deliveries was not supported with delivery notes for each day. Further, the framework contract agreement signed on 24 November, 2024 was not within the

tender validity period of 150 days from the date of opening of tender on 7 March, 2023 as indicated in the tender register. In addition, the payment was supported by LPO dated 18 May, 2023 before the signing of the contract. Similarly, the signed contract was invalid and was contrary to the provisions of Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states 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.

1029.2 Supply and Delivery of Crusher and K160

During the year under review, the County Executive paid an amount of Kshs.21,600,000 for the supply and delivery of 8000 tonnes of crusher run and Kshs.39,600,000 in respect of the supply and delivery of 1,200 drums of 200 kilograms of K160. However, there was no evidence of a market survey carried out to determine the market prices. In addition, there was no evidence of acceptance of the award, performance bond and signed framework contract agreement between the contractor and the County Executive.

1029.3 Supply and Delivery of Asphalt Plant Accessories

Further, a contractor was paid an amount of Kshs.4,988,000 for the supply and delivery of asphalt plant accessories procured through a request for quotation method of procurement. However, the amount exceeded the maximum expenditure of Kshs.3,000,000 allowed for this method as stipulated in the Second Schedule of the Public Procurement and Asset Disposal Regulations, 2020.

1029.4 Irregular Procurement of Bitumen

The County Executive paid a supplier an amount of Kshs.33,000,000 for the supply and delivery of one thousand (1,000) drums of 200Kg of bitumen. The contract was executed through a framework agreement signed on 22 June, 2023. However, no records were provided indicating how the supplier was selected from other two hundred and sixty-seven (267) bidders who were evaluated and recommended for consideration as per the professional opinion and therefore the procurement lacked competition contrary to Regulation 101(3), and 103(1) and (2) of the Public Procurement and Asset Disposal Regulations, 2020.

Further, procurement records such as tender opening minutes and attendance register, tender evaluation minutes and awards were not provided for audit.

In addition, according to the professional opinion, the tender evaluation committee had eight (8) members instead of a maximum of five (5).

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

1030. Irregular Procurement of Renovation of County Flats in Uhuru Estate

Management entered into a contract with a contractor for the proposed renovation of Nairobi City County flats in Uhuru Estate at a contract sum of Kshs.39,866,880 on 17 April, 2023 with a contract duration of 6 months. However, the budgetary provision

during the year an amount of Kshs.17,750,000, an indication of insufficient budget allocation. This was contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015 which states that the Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

Further, a technical inspection report, showed that paint works had been done to cover an approximate surface area of 45,000m² representing 74% out of the total specified area of 60,500m². As at November, 2024, the contract duration had already lapsed while the paint works and roofing remained incomplete. There was no evidence of an extension of the contract period and the project had stalled.

In the circumstances, Management was in breach of the law and value for money spent on the renovation works could not be confirmed.

1031. Payment for Construction of ECDE Centre at Ngunyumu Primary School

During the year under review, the County Executive paid a contractor an amount of Kshs.4,088,753 for the construction of ECDE Centre awarded at a contract sum of Kshs.13,975,680. A certificate of practical completion was issued on 3 November, 2020. However, Management confirmed that the construction was about 95% completion level. Further, no evidence was provided on the extension of contract duration contrary to Section 88(1) which provides that before the expiry of the period during which tenders shall remain valid, the Accounting Officer of a procuring entity may extend that period.

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

1032. Irregular Procurement of Events Management Services

Management made payments of Kshs.49,955,400 to a contractor for the provision of events management services during Battle of Choirs 2nd Edition held at Kenyatta International Conference Centre (KICC) for 2 days from 31 March, 2024 to 1 April, 2024. However, KICC offers events planning coordination services and amenities, including audio-visual equipment at rates prescribed on its website. There was no justification for contracting the same services through a third party when the venue itself could offer all the services tendered at a fair price. Further, the contract agreement between the County and the service provider was not provided for audit.

Similarly, review of procurement documents in respect to the provision of an events manager to implement the Nairobi City Festival at Uhuru Central Park by two bidders at a contract sum of Kshs.25,000,320 and Kshs.26,980,858. However, the tender evaluation scoring was not signed by any members of the evaluation committee. There was also no evidence of a performance bond issued by either of the contracted bidders.

In addition, review of procurement documents in respect of the provision of communication and public relations services for the Nairobi City Festival at Uhuru Central Park at a contract sum of Kshs.7,986,000 revealed that there was no evidence of the tender being advertised in newspapers of wide circulation or on the County Executive's website.

The professional opinion indicated that the tender invitation was issued on 22 November, 2023, while the opening of tenders took place on 29 November, 2023. This did not meet the minimum period of 7 days as prescribed in the Public Procurement and Asset Disposal Act, 2015. In addition, the tender evaluation scoring was not signed by any member of the evaluation committee and there was no signed evaluation report from the committee. The contract was signed on 30 January, 2024 which was one month after the event dates had passed. There was also no evidence of a performance bond issued by the supplier.

This was contrary to Section 68(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed or, if no contract resulted, after the procurement proceedings were terminated.

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

1033. Legal Fees

1033.1 Anomalies in Provision of Legal Services

The schedule of pending bills provided from the County Attorney's office reflects an outstanding legal fees balance of Kshs.17,103,999,971 and decretal sums of Kshs.4,267,004,322 totalling Kshs.21,371,004,293 as at 30 June, 2023. During the year under review, the County Executive paid a total Kshs.483,835,759. However, review of the payments revealed that the Advocates submitted fee notes, some of which were revised. The necessary documentation detailing the basis of the fee notes, in accordance with the Advocates Remuneration Order as well as a summary of the services rendered by the lawyers, was not provided for audit review. Similarly, the basis for the reviewed fee notes by the City County, the contracts between the advocates and the County, as well as the current status of the legal cases were also not provided for audit review.

In addition, the advocates were appointed directly from a list of prequalified legal firms without subjecting the process to a mini-competition. Management did not form an ad hoc evaluation committee to assess quotations for legal services from the list of prequalified legal firms, nor were evaluation reports provided. In the circumstances, the audit could not verify how the legal firms were selected to provide services to the County. This lack of a competitive process may have resulted in inflated costs and missed opportunities to engage more qualified service providers.

1033.2 Unfair Award of Cases and Payment to Advocates

Review of legal cases provided for audit revealed that the County Executive had a total of one hundred and fifty-nine (159) court cases as at 30 June, 2024. However, verification of the cases indicated that out of the cases, sixty-five (65) were assigned to just eight (8) advocates, with the number of cases per advocates, ranging from four (4) to twenty (20).

Management did not provide an explanation for the criteria used to allocate multiple cases to the eight (8) advocates out of the three hundred and fifty (350) prequalified advocates. This was contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the Accounting Officer to ensure a fair and equitable rotation amongst the persons on the list under Sections 57, 71 and 106 of the Act.

In addition, Management paid some advocates who were defending the County in new cases, while payment for some older cases have remained outstanding for many years. The County should prioritize payments for older cases on a first-in, first-out principle.

1033.3 Long Outstanding Court Payments

Review of records in respect of legal cases indicated that the County has been involved in numerous legal disputes dating back to the 1990s, resulting in substantial fines and penalties. Despite these outcomes, Management has consistently failed to comply with court orders, leading to the accumulation of interest on unpaid fines. This exposes the County Executive to additional financial strain and legal consequences. For instance, in the case which dates back to 1991, a decree court order was issued on 3 March, 2015 in respect of High Court HCCC No. 493 of 1991 which directed the County to pay an amount of Kshs.299,375,214 to a party, a sum that continues to accrue interest. Despite a subsequent High Court ruling on 25 November, 2021 reaffirming this obligation, the County Management has still not complied.

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

1034. Non-Adherence to Salaries and Remuneration Commission Guidelines

1034.1 Construction of Governor's Residence

A contract for construction of the Governor's residence at a contract sum of Kshs.235,323,395 was awarded on 25 March, 2024 for a contract period of forty (40) weeks with an expected completion date of 8 January, 2025. According to the Salaries and Remuneration Commission Circular Ref. No. SRC/TS/COG/6/61/48 VOL.II (64) of 20 May, 2019, the County Executive was required to allocate funds and prioritize construction of houses for the Governor and Deputy Governor on public land on an acreage limit for the construction of Governor of up to 2 acres and at a cost of Kshs.45 million. However, at the time of audit in November, 2024, the Governor's official residence was incomplete and no interim certificate had been issued.

Further, the County Government exceeded the cost limit of the Governor's residence by an amount of Kshs.190,323,395. The residence was being built on a parcel of land measuring about 2.5 acres instead of 2.0 acres recommended by the SRC. In addition, the County did not provide evidence of ownership or a title deed for the Governor's residence.

1034.2 Failure to Construct Deputy Governor's Residence and Irregular Rental House Allowance

Review of records indicated that the Deputy Governor's residence had not been constructed. This was contrary to the Salaries and Remuneration Commission (SRC)

Circular Ref. No. SRC/TS/CoG/6/61/48 Vol.II (64) dated 20 May, 2017 which provided guidelines on housing benefits for Governors, Deputy Governors and County Assembly Speakers. The Commission set a deadline of 30 June, 2022 for the completion of the Governor's and Speaker's residences. However, during the year under review the County Executive paid an amount of Kshs.3,600,000 in rental house allowances to both the Governor and the Deputy Governor after the deadline had passed.

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

1035. Dishi na County Programme

1035.1 Irregular Payments to Dishi Na County Implementor

The County Executive entered into a contract with Food for Education on 5 December, 2023 for the provision of school feeding services as part of the Dishi na County Nairobi School Feeding Programme for (one) (1) year at a rate of Kshs.25 per plate. Review of invoices and payments made indicated that the organization invoiced a total of Kshs.345,961,676 at a rate of Kshs.25 per plate and was paid Kshs.262,262,167 during the financial year under review. However, it was noted that learners pay the organization an amount of Kshs.5 directly per plate for the meals provided, therefore the County Executive should have paid the organization Kshs.20 per plate, as part of the contract cost of Kshs.25. Instead, the County paid an amount of Kshs.25 for each plate served, resulting in the implementor earning an amount of Kshs.30 per plate instead of the contracted an amount of Kshs.25.

In addition, the County Executive engaged Food for Education for a pilot exercise, however, no agreement or memorandum of understanding was signed between the County Executive and the Company. Therefore, the audit could not establish how the Company was engaged to provide the services. Further, review of the documents and interviews with Management revealed that in September, 2023, the Embassy of France pledged financial support to Food for Education for delivering hot and nutritious meals for 25,000 of the most vulnerable children in public primary and ECDE schools in Nairobi County. The pledged support amounted to Euro 1,005,000, approximately Kshs.145,725,000, which was disbursed directly to Food for Education. The audit could not ascertain the accountability for these funds. In addition, there were no established measures by the County Executive regarding the management of donations received, as there were no guidelines in place for handling such donations.

1035.2 Irregular Procurement of Proposed Construction of Central Kitchen

Examination of procurement records in respect of a contract for the construction of Central Kitchen awarded at a contract sum of Kshs.32,527,827 indicated that only two (2) bidders submitted tenders. However, review of each evaluator's scores indicated that none of the evaluators signed their individual score sheets. Further, both bidders were classified as responsive and evaluated based on the set technical criteria, which they both met. Despite this, the tender evaluation report stated that bidder No. 1 was non-responsive and eliminated at the preliminary stage, contradicting the individual committee members' scores.

In addition, review of the payment voucher for Kshs.8,095,555 paid to a contractor for the Central Kitchen construction at Njiru Primary School, with a contract sum of Kshs.32,964,416 revealed that three (3) bidders submitted proposals. However, review of the evaluators' scores revealed that no evaluators signed their individual score sheets, raising doubts about the authenticity of the scores. The evaluation committee did not comply with the provisions of Regulation 30(a) of the Public Procurement and Asset Disposal Regulations, 2020, which stipulates that, when discharging the mandate provided for under the Act, the Committee should conduct the technical and financial evaluation of the tenders based strictly on the compliance and evaluation criteria set out in the tender documents.

Physical verification of Central Kitchen for the programme in October, 2024 revealed several issues at Toi Primary Kitchen. Visible cracks were observed on the wall, despite the kitchen being completed only a year earlier. There was no electricity meter installed. In addition, water connectivity was not installed by the contractor, instead, the implementor connected the water at their own cost. There was also poor workmanship of the pavements and the installed gas pipe was not connected to the cooking vessels, rendering it unusable.

According to the bill of quantities, the contractor was expected to install three (3) water tanks each with a capacity of 5,000 litres for cold water storage at a total cost of Kshs.300,000. However, the contractor failed to install driveway and parking lights which were valued at Kshs.500,000 as specified in the bill of quantities.

In addition, the Central Kitchen at Mutuini Primary School was constructed by Food for Education and was handed over to the County Executive for use in the Dishi na County programme. As at the time of the audit, the project was complete and operational. However, it was noted that the kitchen was feeding seventeen (17) schools including five (5) high schools. The audit team was informed that the high school students were paying Kshs.30 per plate for their meals, which exceeded the program's intended scope and was therefore deemed irregular.

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

1036. Irregular Procurement for Construction of Market

The County Executive entered into a contract on 7 February, 2024 for the construction of a market in Mutuini Ward at a cost of Kshs.242,592,914 with a duration of twenty-four (24) weeks and a completion date set for 7 August, 2024. During the financial year under review, a payment of Kshs.69,568,960 was made for the 1st certificate. However, review of the procurement file and bid documents revealed that as at the time of audit in October, 2024 the contract period had lapsed. There was no evidence of an approval for an extension of the contract, and the performance bond expired on 2 July, 2024 with no evidence of renewal. In addition, the project status report was not provided for audit review. Management explained that the project had since stalled.

In the circumstances, the value for money for the expenditure amount of Kshs.69,568,960 could not be confirmed.

1037. Irregular Procurement of Non-Pharmaceuticals

1037.1 Procurements Above the Budgeted Amount

The County Executive budgeted an amount of Kshs.36,000,000 for the establishment of an Intensive Care Unit and Neonatal Intensive Care Unit at Mbagathi Hospital and Pumwani Maternity Hospital. However, the contract was awarded for Kshs.47,917,860, resulting in an over-expenditure of Kshs.11,917,860 beyond the budgeted amount.

In addition, the County Executive contracted a supplier for the supply and delivery of water purifiers for five (5) health facilities at a total contract price of Kshs.29,998,894 under tender number NCC/HWN/T/317/2023-2024. The budget allowed for five (5) water purifiers, each at Kshs.3,000,000 for a total budget of Kshs.15,000,000, resulting in an over-expenditure of Kshs.14,998,894 against the budget. This was contrary to Section 44(2) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer should ensure that the procurement of goods, works and services of the public entity are within the approved budget of that entity.

1037.2 Supply and Delivery of Non-Pharmaceuticals

The County Executive incurred an amount of Kshs.13,890,000 for the supply and delivery of non-pharmaceuticals. Review of stores receiving statements indicated that goods were received in the stores on 3 August, 2023. However, the appointed Inspection and Acceptance Committee conducted their inspection on 6 October, 2023, two months after the goods were received.

Further, the County Executive incurred an expenditure of Kshs.9,945,675 in respect of supply and delivery of non-pharmaceuticals. Review of the procurement documents indicated that the award letter stated a contract period of 14 days. However, the Local Purchase Order (LPO) No. 4299 was issued on 10 July, 2023 while delivery was made on 5 September, 2023. Therefore, the goods were delivered after the 30 days validity period of the LPOs. Further, the inspection was done on 13 October, 2023, which was more than one month after the delivery of goods. This was contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 which states that the inspection and acceptance committee shall immediately after the delivery of the goods, works or services, inspect and where necessary, test the goods received, ensure compliance with the terms and specifications and accept or reject the goods, on behalf of the procuring entity.

1037.3 Supply and Delivery of Health Products for Mutuini Hospital

During the year under review, the County Executive incurred an expenditure of Kshs.8,880,632 for the supply and delivery of health products to Mutuini Hospital. Review of procurement documents indicated that the tender opening took place on 29 June, 2023 while the evaluation was conducted on 28 June, 2023 one day prior to the opening. Further, the award letter specified a contract period of 14 days. However, local purchase order (LPO) was issued on 14 July, 2023 and the delivery occurred on 27 September, 2023. Therefore, the goods were delivered after the validity period of the LPOs had expired which was set at 30 days. In addition, the inspection of the goods was carried out on 21 November, 2023, nearly two months after the delivery

date. Similarly, this was contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015.

1037.4 Supply and Delivery of Non-Pharmaceuticals and Linen for Health Facilities

During the year under review, the County Executive incurred an expenditure of Kshs.59,978,200 for the supply and delivery of non-pharmaceuticals and linen. However, the contracted supplier only delivered goods partially on 30 August, 2023 and issued a credit note of Kshs.2,496,000. No explanation was provided for the contractor's failure to deliver all the items specified in the contract and the local purchase order. Further, there was no evidence that Management took action regarding the supplier's non-performance, while the approval for the credit note was not provided, contrary to Section 150 of the Public Procurement and Asset Disposal Act, 2015.

Although the award letter stated a contract period of 14 days, LPO number 4299 was issued on 10 July, 2023 while delivery occurred on 30 August, 2023 after the 30-day validity after the 30 days period for LPOs had expired. According to the goods received statement, the items were received in the store on 21 August, 2023 while the delivery note was dated 30 August, 2023. It was not clear how the goods were received in the store before the supplier delivered them. Further, inspection took place on 19 September, 2023, which was more than one month after the delivery of the goods. This was contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015.

1037.5 Supply and Delivery of Yellow Fever Certificates

The County Executive paid a supplier an amount of Kshs.8,000,000 for the supply and delivery of yellow fever certificates. However, delivery notes indicated that the goods were delivered on 5 July, 2023 but received in the stores through stores received statement dated 25 July, 2023. This means there was a delay of more than twenty (20) days between the supplier's delivery and the store's receipt of goods. Further, the goods were inspected on 18 July, 2023, before being received in the stores, raising doubts on whether the stores received the items. In addition, the County Executive also paid another supplier an amount of Kshs.19,875,000 for the supply and delivery of yellow fever certificates. However, the certificates were delivered and received in the stores on 28 August, 2023 which was after expiration of the LPO validity period of 30 days as LPO number 4300 was issued on 14 July, 2023.

In the circumstances, Management was in breach of the law and the propriety of the expenditure could not be confirmed.

1038. Procurement and Payment for Fuel, Oil and Lubricants

Review of procurement records for the supply and delivery of fuel and oil through framework agreement revealed the following anomalies;

- (i) The tender was not supported with appointment letters for the tender opening committee and both Opening and Evaluation Committee had the same members contrary to Regulation 78(1) of the Public Procurement and Asset Disposal Regulations, 2020.

- (ii) There was no evidence of notification or acceptance of the award by the suppliers contracted to supply the fuel.
- (iii) Although three (3) companies were awarded the framework contract the County Executive procured fuel only from one company failing to ensure fair rotation among the companies contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020.
- (iv) The County Executive fueled vehicles belonging to the County Assembly totalling Kshs.2,564,401, with some vehicles having defective speedometers making fuel consumption untraceable. There was no repairs and maintenance of motor vehicles.
- (v) Some motor vehicles drew fuel multiple times in a day amounting to Kshs.7,379,642 without updated work tickets leading to inaccuracies in the fuel register.
- (vi) Review of sampled work tickets indicated that fuel was drawn amounting to 2,812.73 litres on various days. However, this was not updated in the fuel register. Further, there were instances of vehicles covering long distances without drawing fuel.
- (vii) Management did not have fuel card policies and procedures using one fuel card per department contrary to the County Executive's Fleet Management standard operating procedure on fueling cards number 6.1 CCN/ADMIN/QP/03.
- (viii) Out of four hundred and eighty-three (483) operational vehicles, only four hundred and fifty-two (452) were fueled during the year, leaving thirty-one (31) vehicles idle throughout the year.
- (ix) Similarly, fuel consumption records for thirty-four (34) operational motor cycles and five (5) generators, were missing, making it impossible to confirm fuel usage.

In the circumstances, the value for money for the expenditure on fuel, oil and lubricants could not be confirmed.

1039. Construction of Gikomba Fire Station

Review of procurement documents in respect of the construction of Gikomba Fire Station awarded on 24 April, 2024 to a company at a contract sum of Kshs.59,983,163 and with a contract period of six (6) months, revealed that the tender opening committee was comprised of five (5) members, appointed through memo dated 6 February, 2024. However, the same members also served as the tender evaluation committee which is against the law that requires the procuring authority to establish an ad hoc tender evaluation committee. It was also noted that the evaluation of the tender was conducted by five (5) members, four (4) of whom were part of the tender opening committee.

Further, the inspection and acceptance certificate No. 1 dated 28 June, 2024 for Kshs.30,024,578 was not supported with a technical report that detailed the work

completed, including the remaining works which would allow for a comparison against the contract completion period.

There was also no evidence to confirm that the project was completed despite the lapse of the contract period.

In the circumstances, the value for money and regularity of expenditure of Kshs.59,983,163 could not be confirmed.

1040. Irregular Procurements in Affordable Housing Projects

The County Executive entered into a joint venture for the design, finance, build and sale of affordable housing in Woodley Estate Phase 1 and Kariobangi North Estate Phase 1. However, the contracts were not cleared by the Attorney General, contrary to Section 134(2) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer of a procuring entity shall ensure that all contracts of a value exceeding Kenya shillings five (5) billion are cleared by the Attorney-General before they are signed. In addition, the following anomalies were noted;

- (i) In the Woodley Project, the contract sum of Kshs.10,288,284,589 excluded the cost of land contrary to Clause 6 of the agreement, which defined the total costs to include land, as a contribution of the County Government.
- (ii) The performance bond of Kshs.57,946,200, was only 0.56% of the contract sum, below the required maximum of 10% contrary to Section 142 of the Public Procurement and Asset Disposal Act, 2015 which states that subject to the regulations, a successful tenderer shall submit performance security equivalent to not more than ten (10) percent of the contract amount before signing of the contract.
- (iii) Similarly, the Bahati Estate bid of Kshs.10,655,663,251 had a performance bond of Kshs.29,797,265, which constituted only 0.27% of the contract sum, again not meeting the legal requirements.
- (iv) Section 9 of the joint venture agreement stated that both the Contracting Authority and the Developer shall fulfill the conditions precedent within a period not exceeding ninety (90) days from the date of signing. However, Section 12 of the same agreement gave both parties the liberty to waive all the conditions precedent for the effective performance of the terms in the agreement. Therefore, the conflicting clauses allowed the waiver of conditions in the agreement, raising concerns about obligation fulfillment.
- (v) For the Ziwani Estate only one bid was evaluated at a contract sum of Kshs.10,103,488,814, despite being non-responsive at the preliminary stage, raising doubt on the authenticity of the evaluation process.
- (vi) The procurements done were through specially permitted procurement procedures. However, Management did not submit the tender documents and the proposed procedure to the Cabinet Secretary for approval detailing the justification for the use of the method.

- (vii) Titles for the land on which the affordable housing projects were to be built were not provided for audit, including the title for Jevanjee land.

In the circumstances, the ownership of the land, value for money and regularity for the housing projects contracts totalling Kshs.31,047,436,654 could not be confirmed. In addition, Management was in breach of the law.

1041. Irregular Procurement for Completion Works of a Modern OPD Complex at Mutuini Hospital

The County Executive engaged a contractor to complete the construction of a Modern OPD Complex at Mutuini Hospital at a contract price of Kshs.236,524,771 for the 18-month period. Review of documents and explanation provided indicated that initially the Project was awarded to a different contractor at a contract price of Kshs.149,084,435, with a contract period of 20 weeks. Work commenced on 27 May, 2021 and the contractor was paid an amount of Kshs.84,111,925 upon achieving 55% completion. However, the project stalled at this stage.

During the year under review, the County Executive undertook re-measurement of the remaining works in an effort to complete the project. The re-measurement process revealed the exclusion of an extra floor in the new estimates. However, it was not clear what necessitated the addition of an extra floor and whether input was received from the user department. Also, the Engineer's report on the valuation of the complex was not provided. In addition, awarding of a total of Kshs.236,524,771 for completion works is deemed irregular, as the estimated cost for the remaining 45% of the project under the initial contract amounted to Kshs.67,087,995. This implies that the additional cost of Kshs.169,436,775 for an extra floor exceeded the original contract sum of Kshs.149,084,435 which was intended for a two-storey building. Physical verification of the project in October, 2024 revealed that the work had stalled and the contractor had abandoned the site.

In the circumstances, the regularity and value for money derived from Kshs.169,436,775 spent on the Project could not be confirmed.

1042. Stalled Projects

1042.1 Stalled Rehabilitation of Desert Play Ground in California Ward

The County Executive entered into a contract for the proposed rehabilitation of Desert Play Ground in California Ward on 8 March, 2023 at a contract price of Kshs.30,228,231 for a period of six (6) months with a completion date of 23 August, 2023. However, review of the project's record indicated that the contract period had lapsed and no extension request had been lodged by the contractor. Further, physical verification indicated that plastic terrace seats were not done, the roof cover done by the contractor was leaking a year after installation, foot pitch was not done yet it formed part of the works to be done in the bill of quantities, artificial turf and tartan surface finish was not done, the gate was not constructed and lastly perimeter wall was not constructed.

1042.2 Stalled Construction of Social Hall at Kahawa West Ward

The County Executive awarded a contract for the proposed construction of Social Hall at Kahawa West (phase 1) on 12 June, 2023 at a contract price of Kshs.16,879,000 for a period of six (6) months with a completion date of 13 December, 2023. According to interim payment certificate No.1 and inspection and acceptance committee report, the contractor was expected to be paid an amount of Kshs.10,312,867. However, the payment voucher revealed that the contractor was paid an amount of Kshs.11,156,816 leading to an overpayment of Kshs.843,949 in respect of the valuation of work done for payment of certificate 1. Further, physical verification of the social hall indicated that the project had stalled.

1042.3 Other Stalled Projects

Review of construction projects undertaken by the County Executive revealed that projects valued at Kshs.2,282,899,172 in respect to the construction of various projects have stalled. It was not clear why these projects remained stalled for years while the County Government embarked on new projects, some that still end up stalling due to non-payment of contract sums due. Failure to manage the projects in line with law may lead to loss of public funds and poor service delivery.

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

1043. Irregular Expenditure under Framework Contracting on Purchase of Food and Non-food Items

The County Executive incurred an expenditure totalling Kshs.353,224,209 in respect of emergency relief and refugee assistance. Review of the framework agreements indicated that the County pre-qualified thirty-one (31) bidders for the supply of food items for a period of two (2) years. Further, the County awarded contracts to the highest prices on food items under the framework contract resulting in excess expenditure of Kshs.16,510,760 which could have been avoided if the County considered awarding the contracts to the lowest bidders. Further, the County did not rotate contractors while awarding purchase orders. This was contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting Officer shall ensure a fair and equitable rotation amongst the persons on the list under Sections 57, 71 and 106 of the Act and these Regulations.

In the circumstances, the value for money for the expenditure of Kshs.353,224,209 could not be confirmed and Management was in breach of the law.

1044. Irregularities in Project Implementation

1044.1 Dandora Stadium

The County Executive awarded a contract for the construction and completion of four (4) Stadia: Kawangware, Ziwani, Kangemi and Dandora at a contract sum of Kshs.1,036,551,255 with a completion period set for eighteen (18) months. However, a dispute arose regarding the installation of steel terraces at the Dandora Stadium instead of concrete terraces. A mediation settlement agreement was signed on 11 May, 2022 with a revised completion period of fifteen (15) months. A total amount of

Kshs.223,304,547 had been paid. However, physical verification of the Dandora Stadium revealed several irregularities and poor workmanship;

- (i) The floodlights were non-functional and the internal lighting had not been installed.
- (ii) The field's surface was uneven, with noticeable bumps and depressions in certain areas, which rendered it unsuitable for football activities.
- (iii) The electrical cables and wiring system on the field were exposed, increasing the risk of theft and vandalism.
- (iv) The roofing materials used were substandard and showed visible signs of deterioration due to exposure to direct sunlight. According to the field management, rainwater frequently leaked through the roof, leading to water accumulation in the seating areas during rain.
- (v) The public address system was non-functional, as explained by the Management, who confirmed that the speakers were not operational.
- (vi) There were visible holes in the perimeter wall. Rather than allowing footballs to bounce back into the field upon contact, footballs created holes due to penetration. The stadium walls were constructed of soft boards, which could easily be penetrated with little force instead of durable concrete stone walls.
- (vii) Records and status updates of the other three (3) stadia were not provided for audit.

1044.2 Renovation of Huruma Estate

The renovation contract for Huruma Estate was set for a duration six (6) months. The contractor took possession of the site on 2 May, 2023, with a practical completion of works expected by 2 October, 2023. However, physical verification conducted in October, 2024, revealed that the project was still incomplete. The contract duration had also lapsed, and there had been no request for an extension. Further, the rooftop tiles were leaking, causing damage to the walls and ceiling. In addition, the tenants complained about the large piles of waste accumulating next to the estate.

1044.3 Rehabilitation of Joe Kadenge City Stadium

The contract for the proposed rehabilitation of Joe Kadenge Stadium was signed on 29 June, 2023 for a contract sum of Kshs.95,937,684 with a contract period of twenty-four (24) weeks. The contractor's performance security of Kshs.4,796,884 expired on 22 December, 2023 with no evidence of renewal despite incomplete works. Physical verification in October, 2024 revealed that the artificial turf was not installed, drainage was partially done and the chain link was not erected despite an amount of Kshs.41,195,196 paid, which constituted 43% of the contract sum. The contractor abandoned the site, the contract period lapsed without evidence of extension and the works remained incomplete.

1044.4 Renovation of Uhuru Estate

The contract for the proposed renovation of Uhuru Estate was awarded to a company at a contract sum of Kshs.39,866,880. The Inspection and Acceptance Report dated 15 June, 2023 indicated that 45,000 m² of painting work had been completed out of a

total of 60,500 m². However, physical verification revealed that the painting was poorly done and the contractor was not on site.

1044.5 Construction of Jericho Playground Perimeter Wall

The contract for proposed construction of a perimeter fence at Jericho Playground was awarded to a contractor at a contract sum of Kshs.17,513,600 for a period of 16 weeks starting 14 July, 2023. However, physical verification of the project in October, 2024 revealed that the guard house floor was incomplete, internal painting was not done, glass windows were missing, the internal wall pointing was unfinished and part of the land was encroached by an adjacent church damaging the wall. Despite these findings, the contractor received the full payment based on an inspection and acceptance report that indicated that the expected works were 100% complete.

1044.6 Rehabilitation of Joseph Kangethe/Woodley Stadium

The contract for the rehabilitation of Joseph Kangethe Stadium was awarded to a contractor at a contract sum of Kshs.135,245,229 with a completion period of six (6) months. A payment of Kshs.29,885,152 was made for payment certificate No.1. However, the inspection and acceptance certificate dated 29 September, 2023 was not supported with a technical report detailing the works done, making it impossible to confirm if the payment matched the works completed.

Physical verification of the project in October, 2024 revealed that the original contractor that was awarded the contract in the financial year 2022/2023 abandoned the project after completing only 20% of the work following the first payment. The expected works included a perimeter wall, a main stand with changing rooms and artificial turf installation. The drainage system was also incomplete. No records were provided in respect of termination of the initial contract and the integrity of the existing structure was not assessed.

Further, a new contract was awarded to another contractor on 2 August, 2024 at a contract sum of Kshs.123,957,878 to construct sitting terraces, a playground area and a toilet block. However, the incomplete works from the previous contractor were not included, and Management did not explain how they plan to complete the unfinished works.

In the circumstances, the value for money and regularity of the expenditure already incurred on the projects could not be confirmed.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Basis for Conclusion

1045. Lack of Preparedness to Transition to IPSAS Accrual

The requirements for transitioning from IPSAS Cash to IPSAS Accrual by County Governments included the development of planning documents and enhancing technical capacity through sensitization and training. However, updates on the transition process revealed that the County Executive established a Steering

Committee in November, 2024 to develop a road map, create awareness and build staff capacity on accrual principles. The Committee was formed five (5) months after the closure of the IPSAS Cash reporting period, an indication that the County may not have adequately prepared for the transition. Further, there was no evidence to indicate that training and sensitization of staff had taken place.

In the circumstances, the County Executive's preparedness to transition to IPSAS Accrual could not be confirmed.

1046. Lack of Human Resource Manual and Policies

The County Executive did not have an approved staff establishment document, human resource and procedure manual, career progression guidelines, succession plan policy, disciplinary procedure policy, casual policy, recruitment plan and procedures relevant for the effective management of its public services. However, the County Executive's Schemes of Service and Human Resource Policy Manual, 2016 indicated that they were prepared and developed by the National Government for use by its officers. In addition, the schemes of service adopted by the County Executive did not include all the cadres of staff employed by the County Executive or incorporate the changes that have occurred within the County Executive's staff establishment over the years.

In the circumstances, the effectiveness of internal control on human resources management could not be confirmed.

1047. Weaknesses in Assets Management

1047.1 Lack of Ownership Documents

Annex 5 to the financial statements reflects a summary of non-current assets register totalling Kshs.32,981,009,614 as at 30 June, 2024 which include buildings and structures valued at Kshs.6,068,472,562. However, ownership records for the properties were not provided for review.

Similarly, documents provided in respect to Dandora Dumpsite indicate that the dumpsite is approximately thirty-two (32.41) hectares. However, the County has ownership documents for land measuring fifteen (15.02) hectares while seventeen (17.39) hectares have only allotment documents. This was contrary to Regulation 166(4) of the Public Procurement and Asset Disposal Regulations, 2020 which states that, for effective, economic, efficient, and transparent use of government inventory, stores and assets at all levels, an Accounting Officer of a procuring entity shall take full responsibility of the management or control of inventory and assets.

Further, the summary of the non-current assets register reflects infrastructure valued at Kshs.18,983,591,616 which includes the infrastructure of Kshs.2,153,389,044 carried out in the year under review. However, a detailed analysis of the specific works done and a comprehensive schedule of infrastructure completed over the years were not provided for audit.

1047.2 Incomplete Assets Register

Annex 5 to the financial statements reflects a summary of non-current assets register with historical cost of Kshs.32,981,009,614. However, the assets register provided by Management was incomplete and had not been updated to reflect the balances disclosed in Annex 5 to the financial statements.

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

1048. Weaknesses in Inventories Management

1048.1 Anomalies in Nanyuki Road Stores

Physical verification carried out in October, 2024 and review of Nanyuki road stores records revealed the following anomalies;

- (i) The store received one thousand three hundred and seventy-five (1,375) drums of bitumen on 26 July, 2024 from Kangundo Road Asphalt Plant during the year under review. However, 120 drums valued at Kshs.3,960,000 were not accounted for. Although Management stated that the case was under investigation, there was no evidence that preventive measures have been implemented to deter re-occurrence.
- (ii) Management did not conduct quarterly and annual inventory stock takes at the close of the financial year contrary to the provisions of Section 162(2) of the Public Procurement and Asset Disposal Act, 2015 which require that the head of procurement function shall conduct quarterly and annual inventory and stock-taking in order to ensure compliance with all respective governing laws and submit the report to the Accounting Officer.
- (iii) Physical verification indicated that numerous inventory items including culverts, PVC pipes, colas, containers 10' by 40 feet and foot bridges had been left to deteriorate in the stores without records being maintained.
- (iv) The weighbridge was not automated and truck weights of ballast, hardcore, marram, quarry dust and boulders were recorded manually. Further, the calibration had not been inspected by the Weights and Measures Department. making weight accuracy uncertain.
- (v) The County Executive did not prepare an annual disposal plan for obsolete items as required by Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020.
- (vi) Review of bin cards revealed that six hundred and forty (640) drums of cold truck material were received on 9 September, 2021 and several other items had not been issued to the user department. Further, nine (9) 40-foot containers and three temporary bridges had not been issued to user department since 9 September, 2021. In addition, it was observed that the store had an unknown number of plastic water pipes in the yard. There were no store records to support their quantity, measurement, and delivery date.

1048.2 Management of Asphalt Plant Store

Physical verification carried out in October, 2024 revealed that the Asphalt Plant received 1400 drums of bitumen which were ordered under a local purchase order dated 23 February, 2024. However, there was no evidence to indicate that the inspection and acceptance process was carried out before the items were taken on charge. This was contrary to the provision of Section 48(3) of the Public Procurement and Asset Disposal Act, 2015 which requires the inspection and acceptance committee to examine and if necessary, test the goods upon delivery. Further, out of the 1400 drums received, 25 drums valued at Kshs.825,000 could not be accounted for. Management explained that the deficit of 25 drums resulted from severe damage to the drums. However, no supporting documents were provided to support the claim. Management also did not explain why the damaged drums were accepted in the store. In addition, the store records relating to bitumen indicated unexplained variances between quantities requisitioned and those issued from Nanyuki stores as summarized below;

SIV Number	Nanyuki Stores Records	Asphalt Plant Records	Variance	Amount (Kshs.)
7211	470 drums	500 drums	30	990,000
7231	315 drums	500 drums	185	6,105,000
7232	55 drums	500 drums	445	14,685,000
7238	165 drums	500 drums	335	11,055,000
Total	1005	2000	995	32,835,000

1048.3 Weaknesses in General Store

Physical verification and review of records in the store indicated that the County Executive did not have any inventory management and control software for effective store management. Further, the inspection found that one thousand, seven hundred (1,700) heavy-duty sash clamps and accessories as well as three thousand (3000) tiles were slow-moving and had been kept in store for many years. The last issuance of tiles occurred on 11 July, 2012. However, Management had not implemented policies and procedures to address slow-moving and obsolete items. It was also established that the County Executive had a printer received in the store in 2013 that had not been in use. The printer may have become obsolete due to technological advancements.

In addition, the physical verification revealed that thirteen (13) medical machines including ACT machines, mammography machines, biochemical analyzers and ski graph medical equipment donated in May, 2014 had remained unused in the store for more than 10 years after delivering in the stores. It was not clear why these machines were never issued to the medical facilities in the County.

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

Appendix

A: List of County Executives and Audit Opinions given on their Financial Statements

1. Certificates with Unqualified Opinion

None

2. Certificates with Qualified Opinion

S/N	County Code	County Executive	Opinion
1.	1	Mombasa	Qualified
2.	2	Kwale	Qualified
3.	3	Kilifi	Qualified
4.	4	Tana River	Qualified
5.	5	Lamu	Qualified
6.	6	Taita/Taveta	Qualified
7.	7	Garissa	Qualified
8.	8	Wajir	Qualified
9.	9	Mandera	Qualified
10.	10	Marsabit	Qualified
11.	11	Isiolo	Qualified
12.	12	Meru	Qualified
13.	13	Tharaka-Nithi	Qualified
14.	14	Embu	Qualified
15.	15	Kitui	Qualified
16.	16	Machakos	Qualified
17.	17	Makueni	Qualified
18.	18	Nyandarua	Qualified
19.	19	Nyeri	Qualified
20.	20	Kirinyaga	Qualified

S/N	County Code	County Executive	Opinion
21.	21	Murang'a	Qualified
22.	22	Kiambu	Qualified
23.	23	Turkana	Qualified
24.	24	Westpokot	Qualified
25.	25	Samburu	Qualified
26.	26	Trans Nzoia	Qualified
27.	27	Uasin Gishu	Qualified
28.	28	Elgeyo/Markwet	Qualified
29.	29	Nandi	Qualified
30.	30	Baringo	Qualified
31.	31	Laikipia	Qualified
32.	32	Nakuru	Qualified
33.	33	Narok	Qualified
34.	34	Kajiado	Qualified
35.	35	Kericho	Qualified
36.	36	Bomet	Qualified
37.	37	Kakamega	Qualified
38.	38	Vihiga	Qualified
39.	39	Bungoma	Qualified
40.	40	Busia	Qualified
41.	41	Siaya	Qualified
42.	42	Kisumu	Qualified
43.	43	Homa Bay	Qualified
44.	44	Migori	Qualified

S/N	County Code	County Executive	Opinion
45	45	Kisii	Qualified
46	46	Nyamira	Qualified
47	47	Nairobi City	Qualified

3. Certificates with Adverse Opinion

None

4. Certificates with Disclaimer of Opinion

None

CONTACTS

3rd Floor, Anniversary Towers, University Way, Nairobi

Phone: +254 020 3214000 | **Email:** oag@oagkenya.go.ke | **Website:** <https://www.oagkenya.go.ke/>



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