



REPUBLIC OF KENYA



THE SENATE

THIRTEENTH PARLIAMENT - FOURTH SESSION

27/03/2025

PAPERS LAID	
DATE	<i>27/03/2025</i>
TABLED BY	<i>Chairperson</i>
COMMITTEE	<i>CPIC</i>
CLERK AT THE TABLE	<i>Lillian</i>

REPORT OF THE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON THE CONSIDERATION OF REPORTS OF THE AUDITOR-GENERAL ON THE FOLLOWING MUNICIPALITIES FOR THE FINANCIAL YEAR 2023/2024 (1st JULY, 2023 TO 30th JUNE, 2024):

NO.	MUNICIPALITY	COUNTY
1.	DIANI MUNICIPALITY	KWALE
2.	ELDORET MUNICIPALITY	UASIN GISHU
3.	ITEN MUNICIPALITY	ELGEYO- MARAKWET
4.	KAPSABET MUNICIPALITY	NANDI
5.	KAKAMEGA MUNICIPALITY	KAKAMEGA
6.	KILIFI MUNICIPALITY	KILIFI
7.	KISII MUNICIPALITY	KISII
8.	KINANGO MUNICIPALITY	KWALE
9.	KWALE MUNICIPALITY	KWALE
10.	LAMU MUNICIPALITY	LAMU
11.	LUNGA LUNGA MUNICIPALITY	KWALE
12.	MALINDI MUNICIPALITY	KILIFI
13.	MUMIAS MUNICIPALITY	KAKAMEGA
14.	MWATATE MUNICIPALITY	TAITA- TAVETA
15.	NYAMIRA MUNICIPALITY	NYAMIRA
16.	VOI MUNICIPALITY	TAITA- TAVETA
17.	WOTE MUNICIPALITY	MAKUENI

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Clerk's Chambers
The Senate
P.O. Box 41842-00100
Nairobi

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27/03/2025
March, 2025

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ACRONYMS/ABBREVIATIONS

CBK	- Central Bank of Kenya
COB	- Controller of Budget
COG	- Council of Governors
DPP	- Director of Public Prosecution
EACC	- Ethics and Anti-Corruption Commission
GAAP	- Generally Accepted Accounting Principles
IFMIS	- Integrated Financial Management Information System
KRA	- Kenya Revenue Authority
IGRTC	- Intergovernmental Relation Technical Committee
OAG	- Office of the Auditor-General
PAA	- Public Audit Act
PFM	- Public Finance Management
PSASB	- Public Sector Accounting Standards Board
SO	- Standing Orders
TNT	- The National Treasury

DEFINITION OF TERMS

1. **Unqualified opinion:** This refers to a clean opinion which is the most desirable in which the auditor states that the financial condition, position, and operations of an organization are fairly presented in the financial statements in accordance with Generally Accepted Accounting Principles (GAAP).
2. **Qualified opinion:** This is an opinion expressed by the auditor if the financial statements appear to contain a small deviation from Generally Accepted Accounting Principles (GAAP) but are otherwise fairly presented. It is also rendered if the management of the organization limits the scope of audit procedures.
3. **Adverse opinion:** This refers to an opinion issued when there are material exceptions to Generally Accepted Accounting Principles (GAAP) that affect the financial statements as a whole and the auditor indicates that the financial statements are not presented fairly.
4. **Disclaimer:** This is an opinion given by the auditor when there is a significant limitation in the access to audit information and documentation and inadequate cooperation by the organizational management in the audit process.
5. **Accountability** – This refers to the assurance that an individual or a group will be held responsible for their actions or inactions.

PREFACE

Hon. Speaker,

Parliamentary Committees are a creation of the Constitution through Article 124(1) of the Constitution which empowers each House of Parliament to establish Committees and make Standing Orders (SO) for the orderly conduct of its proceedings, including the proceedings of its Committees. The Select Committee on County Public Investments and Special Funds is established pursuant to Standing Order No. 194 of the Senate Standing Orders and is mandated to-

- a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the county governments; and
- b) examine the reports and accounts of county public investments; and
- c) examine the reports, if any, of the Auditor-General on the county public investments; and
- d) To exercise oversight over county public investments.

COMMITTEE MEMBERSHIP

- | | |
|---|-----------------------------|
| 1. Sen. Godfrey Atieno Osotsi, CBS, MP. | - Chairperson |
| 2. Sen. Eddy Gicheru Oketch, MP. | - Vice - Chairperson |
| 3. Sen. William Kipkemoi Kisang, MP. | - Member |
| 4. Sen. Peris Pesi Tobiko, CBS, MP | - Member |
| 5. Sen. Agnes Kavindu Muthama, MP | - Member |
| 6. Sen. Beth Kalunda Syengo, MP | - Member |
| 7. Sen. Hamida Ali Kibwana, MP | - Member |
| 8. Sen. George Mungai Mbugua, MP | - Member |
| 9. Sen. Raphael Chimera Mwinzangu, MP. | - Member |

COMMITTEE SECRETARIAT

- | | |
|----------------------------|--|
| 1. Mr. Njenga Njuguna, OGW | -Director, Governance & Accountability Committees |
| 2. Ms. Emmy Chepkwony | -Deputy Director, Governance & Accountability Committees |
| 3. Mr. Yussuf Shimoy | - Clerk Assistant I |
| 4. Mr. Erick Njogu | - Clerk Assistant II |
| 5. Mr. Godfrey Nyaga | - Clerk Assistant III |
| 6. Mr. Khatib Omar | - Clerk Assistant III |
| 7. Mr. Kennedy Owuoth | - Fiscal Analyst |
| 8. Mr. Jeremy Chabari | - Legal counsel |
| 9. Ms. Raisa Mwithi | - Research Officer III |
| 10. Mr. Martin Mulandi | - Research Officer III |
| 11. Mr. Peter Katana | - Research Officer III |
| 12. Mr. Josphat Ng'enh | - Media Relations officer. |
| 13. Mr. Victor Kimani | - Audio officer |
| 14. Mr. Fredick Okola | - Serjent-at-arms |

ESTABLISHMENT OF THE COMMITTEE

Hon. Speaker,

The Committee was first constituted on 19th October, 2022 pursuant to Standing Order No. 194 of the Senate Standing Orders. The County Public Investments and Special Funds Committee (CPISFC) was split from the broad County Public Accounts and Investments Committee (CPAIC) in the 12th Parliament for the purpose of clearing audit backlog and to consider many audit thematic areas which had not been subjected to Parliamentary scrutiny since the inception of devolution in the year 2013.

Hon. Speaker,

The County Public Investments and Special Funds Committee is one of the financial audit committees through which the Senate under the provisions of Article 96(3) of the Constitution conducts ex-post scrutiny on Public Investments and Special Funds in Counties.

EXECUTIVE SUMMARY

In the execution of its mandate, the Committee relied on the reports of the Auditor-General on audited Accounts of the Municipalities for the Financial year 2023/2024 (1st July, 2023 to 30th June, 2024) as the primary documents for the investigations. The Committee invited the Governors as the Chief Executive Officers of their respective County Governments pursuant to Article 179(4) as witnesses to respond to the audit queries raised in the reports under consideration.

The Committee received both written and oral evidences from the Governors in response to the various audit queries raised by the Auditor-General in the reports under consideration on various dates. The Committee considered and concluded its inquiry onto the reports of the Auditor-General on the Financial Operations of the Municipalities for the Financial Year 2023/2024.

This report documents the observations and recommendations of the Committee on each audit query as raised by the Auditor-General.

THE PREFACE DETAILS the place of Committees in the Constitution, Committee establishment and mandate, Committee membership and formation, the niche of the Committee in the Senate, the executive summary, key observations and recommendations and acknowledgement.

CHAPTER ONE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Diani for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER TWO is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Eldoret for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER THREE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Iten for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER FOUR is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kakamega for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER FIVE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kapsabet for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER SIX is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kilifi for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER SEVEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kisii for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER EIGHT is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kinango for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER NINE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Kwale for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER TEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Lamu for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER ELEVEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Lunga Lunga for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER TWELVE is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Malindi for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER THIRTEEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Mumias for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER FOURTEEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Mwatate for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER FIFTEEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Nyamira for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER SIXTEEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Voi for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

CHAPTER SEVENTEEN is a record of the audit queries raised in the report of the Auditor-General for the Municipality of Wote for the Financial Year 2023/24 and observations and recommendations of the Committee on each audit query.

GENERAL OBSERVATIONS

1. **Lack of Operational Autonomy of Municipalities** – The Committee observed that various municipalities lacked operational independence from the County Executive with respect to management, function and finances. This contravened sections 12 on Management independence, 20 on functional independence, 45 and 46 on financial independence of the Urban Areas and Cities Act, 2011 CAP. 275.
2. **Bookkeeping, Preparation & Accuracy of the Financial Statements/ Compliance to Reporting Standards** – The Committee observed that there were various inaccuracies and errors in the financial statements of municipalities, raising concerns about the capacity of the officers who prepared the financial statements. It also observed that municipalities faced challenges in adapting to the International Public Sector Accounting Standards (IPSAS) framework required for preparing the financial statements.
3. **Periodic review of IPSAS**- The Committee observed that the Public Sector Accounting Standards Board (PSASB) periodically reviews IPSAS to address emerging issues and align with best practices, however county entities including municipalities struggled to apply the updated standards, as evidenced by the audit queries.
4. **Asset Management**- The Committee observed that the assets belonging to municipalities were still being held and managed by the county executives. Consequently, this made the municipalities not to maintain and update the asset registers which was contrary to section 104(1)(h) of the Public Finance Management Act, 2012 . Thus, the true financial position of the municipalities could not be reflected in the financial statements.
5. **Late submission of documents**– The Committee observed that the Auditor-General encountered challenges in timely submission of supporting documents for audit by the municipalities, hindering the accountability and audit process. This delay contravened Section 62 of the Public Audit Act, Cap. 412B.
6. **Budgetary Control and Performance** – The Committee observed that municipalities had weaknesses in executing their approved budgets and did not adhere to the approved budget ceilings set for programs. The municipalities either over-utilized or under-utilized the appropriated funds. Further, some Municipalities prepared unbalanced budgets contrary to regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015.

GENERAL RECOMMENDATIONS

The Committee recommends that—

1. Governors ensure that operational independence of the municipalities is fully actualized in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, by the end of the financial year 2024/2025.
2. Accounting officers responsible for municipalities in conjunction with the Public Sector Accounting Standards Board conduct continuous capacity building on financial reporting standards for officers preparing the financial statements of the municipalities so as to improve the quality of reporting and enhance compliance. Accounting officers to ensure that the accountants have requisite competency and experience in financial management as is required by the Accountants Act.
3. The National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties.
4. Governors to ensure that municipalities have full custody of their assets by the end of the financial year 2024/2025. Further, accounting officers responsible for municipalities should maintain an accurate and up-to-date asset register in the format prescribed by the Public Sector Accounting Standards Board pursuant to section 104(1) (h) of the Public Finance Management Act 2012, failure to which penalties under section 199 of the Public Finance Management Act shall apply.
5. Accounting Officers responsible for municipalities should ensure proper record keeping in accordance with Section 149 (2)(b) of the Public Finance Management Act and provide all the supporting documents to the Auditor-General in accordance with section 9(1) (e) of the Public Audit Act during audit and adhere to the Accountants Act, failure to which the committee shall invoke section 62 of the Public Audit Act.
6. Accounting Officers responsible for municipalities should ensure compliance with regulation 31(c) and regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on preparation of a balanced budget and exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.
7. The National Treasury should ensure timely release of funds to County Governments in line with the cash disbursement schedules approved by the Senate.

COMMITTEE RESOLUTIONS

1. The Committee recommends that the Senate resolves that the County Public Investments and Special Funds Committee follows up on the status of implementation of resolutions of the Senate on the recommendations contained in the reports.
2. The Committee considered the reports of the Auditor-General for municipalities of the county governments tabulated in *annex 2* and observed that the reports of the county entities had—
 - (a) queries with high fiduciary risks; and
 - (b) negative implications on the sustainability of the affected county entities.
3. The Committee recommends that—
 - a) the Senate adopts the Auditor-General's reports on the municipalities of the county governments tabulated in *annex 2*; and
 - b) within ninety (90) days of the adoption of this report, the accounting officers of the municipalities of the said County Governments take necessary actions to address the audit queries and file a report to the Senate on the same.
4. Therefore, the Committee recommends to the Senate to resolve that the Committee—
 - (a) undertakes inquiries into the issues raised by the Auditor-General to ensure that all the issues raised are adequately addressed;
 - (b) conducts visits and inspect all projects highlighted by the Auditor-General in her reports to confirm the status and verify any information that may ensue; and
 - (c) follows up on the issues raised by the Auditor-General to ensure that all officers who may have taken part in the misappropriation of funds or any other breach of law are properly investigated and, where found culpable, prosecuted in a court of law.

ACKNOWLEDGEMENTS

Hon. Speaker,

The Committee wishes to acknowledge the support it received from the Office of the Speaker and the Clerk of the Senate in the execution of its mandate. I also take this opportunity to thank the Members of the Committee for their due diligence and commitment in the consideration of the audit reports. The Committee further wishes to express its appreciation to the able secretariat for their support and services in facilitating the Members and the Committee in its operations.

Hon. Speaker,

On behalf of the County Public Investments and Special Funds Committee, it is my pleasant duty and privilege to table this report on the floor of the Senate and commend it to the House for debate and adoption pursuant to the provision of Standing Order No. 223 (6) of the Senate Standing Orders.

SIGNED:


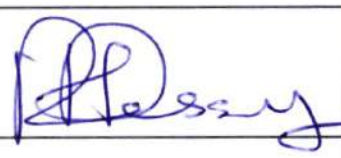


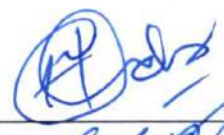


DATE: 27th March 2025

HON. SEN. GODFREY ATIENO OSOTSI, MP
CHAIRPERSON

**ADOPTION OF THE REPORT OF THE SENATE SELECT COMMITTEE ON
COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON THE
CONSIDERATION OF THE AUDIT REPORTS OF ELEVEN COUNTY WATER
SERVICE PROVIDERS FOR THE FINANCIAL YEAR 2023/2024**

NO.	WATER COMPANY	COUNTY
1	BUSIA WATER AND SEWERAGE SERVICES COMPANY LIMITED	BUSIA
2	ELDORET WATER AND SANITATION COMPANY LIMITED	UASIN GISHU
3	GATANGA WATER AND SANITATION COMPANY LIMITED	MURANG'A
4	GUSHI WATER AND SANITATION COMPANY LIMITED	KISII
5	KAKAMEGA WATER AND SANITATION COMPANY LIMITED	KAKAMEGA
6	KAPSABET NANDI WATER AND SANITATION COMPANY LIMITED	NANDI
7	KIBWEZI-MAKINDU WATER AND SANITATION COMPANY	MAKUENI
8	KWALE WATER AND SEWERAGE COMPANY LIMITED	KWALE
9	LAMU WATER AND SEWERAGE COMPANY LIMITED	LAMU
10	MALINDI WATER AND SEWERAGE COMPANY LIMITED	KILIFI
11	MBOONI WATER AND SANITATION COMPANY LIMITED	MAKUENI
12	MURANG'A SOUTH WATER AND SANITATION COMPANY LIMITED	MURANG'A
13	MURANG'A WATER AND SANITATION COMPANY LIMITED	MURANG'A
14	TANA WATER AND SANITATION COMPANY LIMITED	TANA RIVER
15	TAVEVO WATER AND SEWERAGE COMPANY LIMITED	TAITA TAVETA
16	WOTE WATER AND SEWERAGE COMPANY LIMITED	MAKUENI

We, the undersigned Members of the Select Committee on County Public Investments and Special Funds, do hereby append our signatures to adopt this report.

No.	Name	Signature
1.	Sen. Godfrey Atieno Osotsi, MP (<i>Chairperson</i>)	
2.	Sen. Eddy Gicheru Oketch, MP (<i>Vice-Chairperson</i>)	
3.	Sen. William Kipkemoi Kisang, MP	
4.	Sen. Peris Pesi Tobiko, CBS, MP	
5.	Sen. Agnes Kavindu Muthama, MP	
6.	Sen. Beth Kalunda Syengo, MP	
7.	Sen. Hamida Kibwana Ali, MP	
8.	Sen. George Mungai Mbugua, MP	
9.	Sen. Raphael Chimera Mwinzangu, MP	

CHAPTER ONE

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF DIANI FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kwale County, Hon. Fatuma Mohamed Achani, EGH, appeared before the Committee on Thursday, 20th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Diani for financial year 2023/2024. She was accompanied by –

- | | |
|-------------------------|--------------------------|
| 1. Ms. Saumu Beta | - CECM Environment |
| 2. Mr. Alex Onduko | - Chief Officer, Finance |
| 3. Mr. Mbeyu Mumba | -Municipal Manager |
| 4. Ms. Christine Malila | -Accountant |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of Municipality of Diani for the period under review on the following basis –

1. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following anomalies –

- i. The statement of financial performance reflect transfer from county government of Kshs. 16,450,618 while the statement of cash flows reflect the same as Kshs.5,305,120. However, the statement of financial position reflects receivables from non-exchange transaction of Kshs.6,417,621 instead of Kshs. 11,145,498. The variance of Kshs. 4,727,877 was not explained or reconciled.
- ii. The statement of financial position indicates receivables from exchange transactions balance of Kshs.6,417,621 while Note 21 to the financial statements reflect Kshs. Nil balance. The variance was not explained or reconciled.
- iii. The use of goods and services was amended from Kshs.21,284,344 to Kshs. 16,449,723. However, the amendment of Kshs. 4,834,621 was not supported with journal entries and supporting schedule.
- iv. The statement of financial performance reflects use of goods and services amount of Kshs. 16,449,723, while the statement of cash flows reflects use of goods and services payments amount of Kshs.5,304,226 resulting in payables balance of Kshs. 11,145,497. In addition, the statement of financial position reflects an increase in property, plant and equipment of Kshs.57,714,004 from prior year and the statement of net assets reflect capital

funds received of Kshs.24,396,072 resulting in payables balance of Kshs.33,317,932. The total resultant payables from the use of goods and services and property plant and equipment is Kshs.44,463,429. However, the statement of financial position and Note 26 to the financial statements reflects trade and other payables balance of Kshs. 35,188,991 resulting in an unexplained variance of Kshs.9,274,438.

- v. The statement of changes in net assets reflects capital/development funds received of Kshs.24,396,072 while the statement of cash flows reflects Nil.in addition IFMIS payment details reflects development expenditure of Kshs. 24,277,230 resulting to an unexplained variance of Kshs. 118,842.
- vi. The statement of changes in net assets reflects prior year adjustments of Kshs.2,103,505, while the statement of financial performance under the comparative year has no amendments. In addition, how the derivation of the adjustments is not explained in the financial statements.
- vii. The statement of comparison of budget and actual amounts reflects actual revenue of Kshs. 16,450,618 while the statement of cash flows reflect cash receipts from county government of Kshs.5,305,120. The variance of Kshs. 11,145,498 was not explained.
- viii. The statement of comparison of budget and actual amounts reflects original recurrent and development budget amount of Kshs.21,304,000 and Kshs.79,102,237 while the approved budget reflects the same as Kshs.21,369,811 and Kshs.44,000,000 respectively. The variances of Kshs.65,811 and Kshs.35,102,237 were not explained.

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

Management Response

Management responded as follows –

- i). Diani Municipality acknowledge receipts of 5,305,120 from County Treasury to the operations account and 11,145,498 paid through Central Bank Account held at County Treasury. The management has noted that ksh.6,417,621 was erroneously reported in the statement of financial position as per IPSAS accrual, since the municipality does not owe county Government. Therefore, the Financial difference of ksh. 4,727,877 is not a variance as it is part of 11,145,498 paid by the county treasury. Prior year adjustments will be made in the subsequent financial year of FY 2024/2025.
- ii). The Municipality had reported that it owes the county Government Kshs.6,417,621, however IPSAS accrual does not recognize any Receivables for entities. This was therefore an error which will be corrected in the subsequent financial year.

- iii). The use of goods and services was amended from Kshs.21,284,344 to Kshs.16,449,723 the amount reported was based on the actual procured goods and services. The amendment of kshs.4,834,621 was a capital Expenditure and is well reported in the property plant and equipment.
- iv). The statement of financial performance under note 6 records two transactions where Kshs 5,304,226 were transfer to the Municipalities and Kshs. 11,145,497 was payment made by county Treasury on behalf of the entity. The statements of cashflows only recognized the actual receipts received by the Entity. The statement of financial position under property, plant & Equipment of Kshs 24,396,072 was the amount paid on infrastructure and roads during the year, Kshs 33,317,932 was work in progress as at 30th June 2024. There was no difference of Kshs 9,274,438 as the Trade payables were Kshs. 35,188,991.
- v). The municipality acknowledges it incurred Kshs. 24,277,230 as development expenditure but the system failed to pick 118,842 being contractual fee hence resulting to the variance. As per IPSAS accrual, expenditure paid for by other entities is not reported in the cash flow statement.
- vi). The effect to the changes in net assets was brought by the previous year adjustments led to decrease in surplus. The schedules are attached to support the financial statement.
- vii). The statement of financial performance under note 6 records two transaction where Kshs 5,304,226 were transfer to the Municipalities and Kshs 11,145,497 were payment made by county Treasury on behalf of the entity so they could not be reflected in the statement of cashflow. The statements of cash flows only recognized the actual receipts received by the Entity.
- viii). The management confirms that the supplementary budget II of 2023/2024 confirm the budget of the Municipality to be ksh.21,304,000 and ksh.79,102,237 respectively.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). there were significant financial statement discrepancies such as-
 - Multiple instances of unexplained variances between the Statement of Financial Performance, Statement of Cash Flows, and Statement of Financial Position.
 - Inconsistencies in the reporting of receivables, payables, and capital/development funds.
 - Lack of supporting documentation for several adjustments and amendments.
 - Issues related to the correct application of IPSAS accrual accounting.

- Discrepancies between budgeted and actual amounts.
- ii). management failed to undertake the necessary adjustments and reconciliation of the financial statements as well as provision of supporting documents at the time of audit;
- iii). management explanations of the transfers from county treasury, and the payment made by the county treasury on behalf of the entity, highlight a misunderstanding of how these transactions should be accounted for within the statement of cash flows, an indication of capacity challenges in the finance and accounting sections; and
- iv). the numerous inaccuracies are an indication of weak internal control systems.

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should ensure that the inaccuracies observed in the financial statements are adjusted accordingly using the relevant journal entries and reflected as prior year adjustments in the financial statements of the subsequent financial year. Auditor-General to provide a status update on the matter in the subsequent audit cycle ;
- ii). the Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply ;
- iii). the Accounting Officer should strengthen internal audit controls and ensure proper record keeping ;
- iv). the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and
- v). the Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 534.

2. Misstatement of Financial Statements Balances

2.1. Property, Plant and Equipment

The statement of financial position and Note 24 to the financial statements reflects property, plant and equipment of Kshs. 148,952,914 which include additions to roads and other infrastructure of Kshs.24,518,223. However, the proposed muramming of Mabu river - Hill park road in Tiwi ward was transferred to roads and other capital

infrastructure as additions at an amount of Kshs.5,954,373 instead of the certified value of Kshs.6,615,970, resulting in an understatement of Kshs.661,597. In addition, the additions for the year under capital works in progress revealed an overstatement of Kshs.4,208,656 as a result of an addition of Kshs. 12,953,775 for proposed construction of Diani Bus Park instead of the interim payment certificate value of Kshs. 8,745,118.

In the circumstances, the accuracy and completeness of property, plant and equipment balance of Kshs. 148,952,914 could not be confirmed.

Management Response

Management responded as follows –

The management paid the certified value of works of kshs.6,615,970 based on the approval of the project engineer. We have also noted the overstatement of the capital works and an adjustment of the financial statement provided reconciled the PPE of the municipality. The underpayment queried by the auditor is Project retention money which will be paid upon expiry of the defects liability period.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). management failed to provide evidence of adjustments and reconciliation to Property Plant and Equipment; and
- ii). presence of misstatement is an indication of weakness in internal control systems and possible capacity challenges in the finance and accounting sections; and
- iii). management failed to undertake the necessary adjustments and reconciliation of the Property, Plant and Equipment as well as provision of supporting documents at the time of audit.

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should undertake a reconciliation of the understatements and overstatements in the Property, Plant and Equipment and ensure that the adjustments are reflected as prior year adjustments in the financial statement of the subsequent financial year. The Auditor-General to provide a status update on the matter in the subsequent audit cycle;
- ii). the Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply;

- iii). the Accounting Officer should strengthen internal audit controls and ensure proper record keeping;
- iv). the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and
- v). the Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 534.

2.2. Trade and Other Payables

The statement of financial position reflects trade and other payables amount of Kshs.35,188,991. The schedule provided for trade and other payable includes Kshs. 12,953,775 for construction of Bus Park Phase II. Review of supporting documents revealed two interim payment certificates (IPC) for the construction, IPC 1 for Kshs.8,745,118 and IPC 2 for Kshs.7,046,225. The IPC 2 was paid in full and hence account payable balance for the project of Kshs.8,745,118 and not Kshs. 12,953,775 as reflected in the financial statements. The resultant variance Kshs. 4,208,657 on trade and other payables was not explained or reconciled.

In the circumstances, the accuracy and completeness of trade payables of Kshs. 12,953,775 could not be confirmed.

Management Response

Management responded as follows –

The management entered into a contract to construct bus park phase II, however the management wishes to highlight that kshs.4,208,657 was for the remaining works whose certificate had not been raised. The project has so far been completed and the contractor paid Kshs. 12,953,775.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). the variance of Kshs. 4,208,657 had not been reconciled at the time of audit; and
- ii). according to the management, this variance resulted from payments for outstanding works for which no certificate had been issued, information that was not disclosed in the financial statement.

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should undertake a reconciliation of the variance by providing documentation as evidence that the amount that pertains to payments for outstanding works for which no certificate had been issued. The Auditor-General to provide a status update in the subsequent audit cycle;**
- ii). the Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply;**
- iii). the Accounting Officer should strengthen internal audit controls and ensure proper record keeping;**
- iv). the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and**
- v). the Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 534.**

Emphasis of Matter

Under Emphasis of matter, the Auditor-General raise the following issue –

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects receipts final budget and actual amounts on a comparable basis of Kshs.28,104,000 and Kshs. 16,450,618 respectively resulting in under-funding of Kshs. 11,653,382, or 41% of the budget.

The under-funding may have impacted negatively on the service delivery to the residents of Kwale County.

Management Response

Management responded as follows –

The management concurs with the Auditors observation, the Underfunding was due to late disbursement of funds by the National Treasury.

Committee Observations

The Committee observed that the query remains unresolved as there was a budgetary under-funding of Kshs. 11,653,382, or 41% of the budget. This was linked to delays in disbursement of funds by the National Treasury.

Committee Recommendations

The Committee recommends that –

- i). **the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply; and**
- ii). **the National treasury should ensure timely disbursement of funds to counties in accordance with the disbursement schedule passed by the Senate.**

Other Matter

The following issue was raised by the Auditor-General under Other Matter –

Unresolved Prior Year Audit Issues

In the auditor's report of 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 has not given any explanation on why the issues have not been resolved as at 30 June, 2024.

Management Response

Management responded as follows –

All prior issues have been resolved and a report of the same provided as evidence for scrutiny.

Committee Observations

The Committee observed that the query remains unresolved, as numerous issues highlighted in the progress report are yet to be addressed.

Committee Recommendations

The Committee recommends that the Accounting Officer responsible for the municipality should resolve any issues resulting from an audit that remains outstanding in accordance with section 149(2)(l) of the Public Finance

Management Act, Cap 412A failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply. The Auditor-General to monitor progress and provide a status update in the subsequent audit cycle.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Delayed Completion of the Proposed Construction of Diani Municipality Bus Park

The statement of financial position and Note 24 to the financial statements reflect property, plant and equipment of Kshs. 148,952,914 which includes additions on capital work in progress of Kshs.36,827,287. The additions in turn includes the proposed construction of Diani Municipal Bus Park awarded at contract sum of Kshs.27,979,557 and contract period of 180 days, commencing on 2 February, 2024 to 30 July, 2024. The contractor was paid Kshs.7,046,225 on 13 June, 2024. On 17 July, 2024 the contractor requested for contract period extension and was granted ninety-three (93) days to 30 November, 2024. However, the contractor's detailed schedule of works to completion was not provided for audit review while at the time of audit on 11 November, 2024, the works were not yet complete though the contractor was on site and the works were ongoing.

In the circumstances, the value for money on the project may not have been received.

Management Response

Management responded as follows –

The project was completed within the project's stipulated time frame. The schedule of work has been attached. The project is complete and in use.

Committee Observations

The Committee observed that the query remains unresolved as at the time of audit, the project was not complete and the certificate of completion that was provided was submitted outside the audit timelines.

Committee Recommendations

The Committee recommends that –

- i). the Auditor-General to undertake a project verification exercise to ascertain the status of the project and submit a status update in the subsequent audit cycle; and
- ii). the Accounting Officer should ensure timely submission of documents during the audit process in accordance with section 9(1)(e) of the Public Audit Act Cap. 412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act.

2. Unsupported Supplementary Budget

The Municipality had an original approved budget of Kshs.21,369,811 and Kshs.44,000,000 and final supplementary budget of Kshs.31,823,811 and Kshs.79,102,237 for recurrent and development respectively. However, the approved supplementary estimates lacked information regarding actual expenditure and commitments against the planned activities as at the date of request for supplementary allocations and footnotes explaining the reasons for the variations and the impact or implications for the affected programmes.

In addition, the final supplementary development budget of Kshs.79,102,237 included pending bills from previous years of Kshs.26,342,237 while the payables as at the 30 June 2023 was Kshs. 16,130,108. The variance of Kshs. 10,212,129 was not explained or reconciled.

Management Response

The municipality had forwarded its supplementary Budget requirement to the county executive member for finance. The management carried forward the previous year unspent budget and appropriated it as per supplementary II budget. The object was to make sure all the projects are paid when certificates are raised. The internal memo was provided to confirm the same.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). the approved supplementary estimates lacked information regarding actual expenditure and commitments against the planned activities as at the date of request;

- ii). the variance on pending bills from previous years of Kshs.26,342,237 and the payables as at the 30 June, 2023 of Kshs.16,130,108 was not explained; and
- iii). the observed discrepancies suggest potential weaknesses in the municipality's budgetary control processes and potential.

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply;
- ii). the Accounting Officer should enhance the capacity of officers regarding proper budget preparation and budget controls.
- iii). the management to submit documentation to support the unexplained payable variance of Kshs. 16,130,108 to the Auditor-General within 30 days of the adoption of this report and Auditor-General to keep this matter in view in the subsequent audit cycle.

CHAPTER TWO

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF ELDORET FOR THE FINANCIAL YEAR 2023/2024

The Governor of Uasin Gishu County, Hon.Dr. Jonathan Bii Chelilim, EGH, appeared before the Committee on Thursday 25th March 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Uasin Gishu for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

- | | |
|--------------------|-------------------|
| 1. Micah Rogony | -CECM-Finance |
| 2. Silvester Metto | -County Attorney |
| 3. Philip Meli | -County Secretary |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Municipality of Eldoret for the financial year on the following basis—

Basis for Qualified Opinion

1. County Government of Uasin Gishu and the Municipality of Eldoret

1.1. Transfers from the County Government

The statement of financial performance reflects transfers from the County Government of Kshs.41,279,479. As disclosed in Note 1 to the financial statements. However, audit review revealed that these were not direct transfers of funds from the County Government to the Municipality but rather payments of expenditures made on behalf of the Municipality of Eldoret.

In addition, Management of the Municipality did not provide a breakdown of the expenditure payments made on its behalf by the County Government.

In the circumstances, the accuracy and completeness of the transfer from the County Government amount of Kshs.41,279,479 could not be verified.

Management Response

County acknowledges the observation. County has only one CRF Account that is used by the County Executive and County Assembly. Though the Municipality has an A.I.E holder, accountants, does its own budget (vote 4331) and requisitions; all the County requisitions are forwarded to the CoB through CECM Finance and Economic Planning for execution. Money is therefore paid through the CRF and not necessarily paid on behalf of the Municipality.

Kshs.41,279,479 were payments made by the Municipality of Eldoret and the breakdown of the expenditure has been provided.

Committee Observations

The committee observed that –

- i. During the period under review the Municipality received funding from the County indicating lack of autonomy.
- ii. During the period under review the municipality awarded a charter to be a city, however lack of autonomy still persists.
- iii. The board of Eldoret Municipality transitioned to be board members of the City of Eldoret, contrary to Sections 13 and 14 of the Urban areas and cities Act Cap 275.
- iv. The city lacked independence in terms of management, functional and financial contrary to Section 12,20,45 and 46 of the Urban Areas and Cities Act Cap 275.

Committee Recommendations

The committee recommends that—

- i. **Within 60 days of adoption of this report, the Governor ensures that City of Eldoret has a board and a Municipal Manager in accordance with the Urban Areas and Cities Act Cap 275 and provide a status update within the same period.**
- ii. **the Governor of Uasin Gishu County takes all the necessary steps to ensure the City of Eldoret achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, cap.275 and the Auditor General to verify the implementation of this recommendation in the next audit cycle.**

1.2. Double Reporting of Expenditure in Financial Statements

The statement of financial performance for Municipality of Eldoret reflects total expenses of Kshs.44,153,422 comprising of use of goods and services of Kshs.40,516,850, depreciation amount of Kshs.2,873,948 and repairs and maintenance amount of Kshs.762,629. It was however observed that the use of goods and services amount of Kshs.40,516,850 and repairs and maintenance amount of Kshs.762,629 were also recorded in the books and expensed in the financial statements of the County Executive of Uasin Gishu. This amounted to double reporting of the expenditure on both the Municipality of Eldoret and the County Executive of Uasin Gishu.

Further, the Municipality has staff seconded from the County Government of Uasin Gishu and the remuneration paid to these staff is recognized in financial statements of County Executive of Uasin Gishu and not in the Municipality's financial statements in contrast to the other expenditure.

In the circumstances, the accuracy and completeness of the total expenses amount of Kshs.44,153,422 could not be verified.

Management Response

The Municipality has an A.I.E holder, accountants, does its own budget and requisitions; all the County requisitions are forwarded to the CoB through CECM Finance and Economic Planning for execution. Money is therefore paid through the CRF. The County Executive in preparation of its financial statements erroneously reported the expenditures of the municipality as individual expenditure instead of capturing the only the transfers to the Municipality leading to the double reporting. Corrective action is being taken to make sure the same does not repeat itself in the subsequent years.

Further, the remuneration of the staff seconded from the County Government of Uasin Gishu was recognized in the financial statements of County Executive since all the remuneration of the County staff is centralized under the Public Service Management.

Committee Observation

The committee observed that expenses totaling Kshs.44,153,422 were reported in both the Municipality and County Executive financial statements, leading to double reporting indicating lack of autonomy.

Committee Recommendations

The committee recommends that the city of Eldoret has been granted full autonomy in accordance with the Urban Areas and Cities Act Cap.275.

2. Use of Goods & Services

The statement of financial performance reflects use of goods and services of Kshs.40,516,850 as disclosed in Note 2 to the financial statements. However, review of Note 2 to the financial statements, the related supporting schedules and ledgers provided for audit revealed the following anomalies:

2.1 Unsupported Board Expenses

The use of goods and services amount of Kshs.40,516,850 includes hospitality supplies and services amount of Kshs.12,463,575, which further includes board meetings sitting allowances of Kshs.324,000 as disclosed in Note 2 to the financial statements. However, the Board of Directors' appointment letters, gazette notices and their appointments to the respective committees of the Board were not provided for audit review.

Management Response

The finding is noted. The appointment letters for the Board committees and the Kenya Gazette Notice have been availed.

The Board committee appointed 4 (four) sub-committee as indicated in the table below:

S/No.	Committee	No. of each
1	Planning and Operations Committee	4
2	Finance and Human Resource Committee	4
3	Audit Committee	4
4	Environmental Committee	4

Committee Observations

The Committee observed that –

- i. whereas the payment vouchers, Board minutes, Attendance register, Calendar of Board meetings and the Gazette notice of appointment of the Board members to support the board expenses were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act. Minutes provided by the management were not reviewed by the Auditor General.
- ii. Appointment letters of two board members were not provided

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)I of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

2.2 Unsupported Payments on Advertising, Printing Supplies and Services

The use of goods and services amount of Kshs.40,516,850 includes advertising, printing supplies and services amount of Kshs.1,371,000. However, payment vouchers amounting to Kshs.1,166,000 were not provided for audit review.

Further, the amounts paid were not supported with the counter receipt voucher (S13) and counter requisition and issue voucher (S11) to indicate points of receipts and use of the supplies and services. In addition, inspection and acceptance reports on the supplies and services supplied, how the items were delivered and appointment letters for inspection and acceptance committee members were not provided for review.

Management Response

The observation has been noted. The reported payment vouchers have been availed for verification.

Voucher	Payee	Payment	Amount	Payment Voucher No.
69404	Sarah Korir	06-Oct-23	40,000	17 EMB
69415	Isabela Aiyabei	06-Oct-23	45,000	16 EMB
69416	Sarah Korir Jemaiyo	06-Oct-23	45,000	11 EMB
69735	Felix Limo	23-Oct-23	30,000	12 EMB
69736	Felix Limo	23-Oct-23	45,000	13 EMB
71057	Moses Rutto	08-Jan-24	414,000	23 EMB
71807	Moses Rutto	09-Feb-24	305,000	29 EMB
71807	Moses Rutto	09-Feb-24	100,000	29 EMB
71813	Kassim Kipkorir Swalel	09-Feb-24	347,000	09 EMB
		Total	1,371,000	

Committee Observations

The Committee observed that the submitted vouchers were not verified by the auditor General.

Committee Recommendations

The committee recommends that the Auditor General should verify the provided documents within 30 days of the adoption of this report and provide a status update.

2.3 Unsupported Expenditure on Travel Costs

The use of goods and services amount of Kshs.40,516,850 includes travel costs amount of Kshs.1,638,300.00 as disclosed in Note 2 to the financial statements. However, payment vouchers amounting to Kshs.1,018,400 were not provided for audit verification. Further, there were discrepancies between the actual days of travel and the approved dates of travel and no explanations were provided.

Management Response

The following payment vouchers for travel costs has been availed as indicated below

Voucher	Payee	Payment Date	Amount (Kshs)	PV Number
68381	Moses Rutto	23-Aug-23	423,800	02 EMB
68821	Isabela Ayabei	07-Sep-23	194,000	06 EMB
71559	Ben Mutai	31-Jan-24	69,300	EMB
10436762	Moses Rutto	01-Feb-24	168,000	17.S.EMB
71949	Salinah Koitie	16-Feb-24	39,000	EMB
72696	John Yego	11-Mar-24	101,200	142 GOV
72691	Tito Busienei Koiyet	11-Mar-24	16,800	37EMB
72692	Tito Busienei Koiyet	11-Mar-24	76,600	40EMB
72697	Musa Kipkoech Mutai	11-Mar-24	58,000	138 GOV
72913	Julius Koech	19-Mar-24	134,400	19.S.HUD
74591	John Kemei	10-Jun-24	68,000	53EMB

Committee Observations

The Committee observed that whereas the evidence showing that the payment vouchers travel cost was completed was submitted and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)I of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

2.4 Daily Subsistence Allowance and Domestic Travel and Subsistence

The use of goods and services amount of Kshs.40,516,850 includes domestic travel and subsistence of Kshs.3,330,450 and daily subsistence allowance amount of Kshs.1,569,400 as disclosed in Note 2 to the financial statements. Review of payment records for both domestic travel and subsistence and daily subsistence allowance expenses revealed that payments amounting to Kshs.2,768,330 incurred on daily subsistence allowances were not supported with work tickets, travel itinerary, program of activities, attendance registers, back to office reports, ETR receipts for low value procurements, approved budgets for each activity and authority to incur expenditure.

Further, when conducting citizen I, it was not clear on how the venues and participants were identified and invited to the various events. In cases where members of staff of the Municipality attended training, certificates of attendance/participation were not provided for audit review. Similarly, there were instances where daily subsistence allowances were paid to non-staff members.

In addition, Management of the Municipality of Eldoret did not provide payment vouchers for daily subsistence allowance and domestic travel and subsistence expenses amounting to Kshs.2,131,520.

Management Response

Kshs.2,768,330 was amounts incurred on daily subsistence allowances. The payment vouchers are supported and availed for verification.

When conducting citizen I the venues were at the ward offices within the municipality and also at the social hall Eldoret. The participants were invited through public barazas as per attached public notices.

Committee Observation

The committee observed that the submitted vouchers were not verified by the auditor General.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)I of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

2.5 Unsupported Expenditure on Other General Expenses

The use of goods and services of Kshs.40,516,850 includes other general expenses amount of Kshs.1,004,095 as disclosed in Note 2 to the financial statements out of which an amount of Kshs.601,495 was not supported with payment vouchers.

Management Response

Kshs.601,495 was for the procurement of general expenses as indicated in the table below:

S/No.	IFMIS Voucher No.	Payee	Payment Date	Amount	Response	
					Manual Voucher No. (Serialized)	Total voucher amount (KShs)
1	70622	Isabella Ayabei	29-Nov-23	20,000.00 30,000.00	99EMB	50,000.00
2	71119	Sarah Korir	12-Jan-24	1,000.00 23,000.00	09.S.EMB	24,000.00
3	71120	Beatrice Sumbaei	12-Jan-24	49,900.00	05.S. EMB	49,900.00
4	71353	Alfred Lagat	26-Jan-24	50,000.00	20 EMB	50,000.00
6	72552	Akinyi Akello	05-Mar-24	20,000.00	25EMB	20,000.00
7	72725	Alfred Kibet Lagat	13-Mar-24	11,650.00	33EMB	11,650.00
8	72851	Eldowas Ltd Co.	15-Mar-24	7,898.00 155,000.00	07EMB	162,898.00
9	74442	Brian Kipkemboi	05-Jun-24	6,062.00 79,670.00	23.S.EMB	110,900.00
11	74592	Gideon Kimutai Kirwa	10-Jun-24	50,000.00	20.S. EMB	50,000.00
				601,495		

Committee Observations

The Committee observed that the supporting vouchers were submitted outside the audit timelines hence Auditor-General was not able to undertake verification of the same.

Committee Recommendations

The committee recommends that the Committee recommends that the Accounting Officer ensure timely submission of documents during the audit process in line

with section 9(1)I of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

2.6 Unsupported Expenditure on Fuel, Oil and Lubricants

The use of goods and services amount of Kshs.40,516,850 includes fuel, oil and lubricants amount of Kshs.17,816,550.00 as disclosed in Note 2 to the financial statements. However, review of the fuel, oil and lubricants expenses revealed that the daily work tickets where fuel purchased and/or drawn should be indicated were not provided for audit review, the list of vehicles maintained and/or assigned to Municipality were not provided for audit review thereby making it difficult to track fuel usage and the Municipality's fuel register was not provided for audit review. Therefore, it was not possible to corroborate the fuel consumption in the supplier's statements.

Management Response

The work tickets have fuel purchased and /or drawn indicated. The list of vehicles maintained by the Municipality is provided for verification.

Committee Observation

The Committee observed that whereas the evidence showing that the work ticket has fuel purchased as well as list of vehicles maintained was provided to the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)I of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

3 Property, Plant and Equipment

3.1 Assets Register

The statement of financial position reflects non-current assets balance of Kshs.923,610,431 comprising of property, plant and equipment and work-in-progress balances of Kshs.436,434,420 and Kshs.487,176,011 respectively as disclosed in Note 6(b) to the financial statements. However, a comprehensive asset register detailing the assets that the Municipality owned and/or were in control of the Municipality, the rate of depreciation and the net book values was not provided for audit review. In the

absence of a complete and up-to-date assets register, the accuracy and/or completeness of the non-current assets balance of Kshs.923,610,431 could not be ascertained.

In addition, the property, plant and equipment movement schedule reflect additions during the year amount of Kshs.81,202,286.00. These additions include an amount of Kshs.4,073,600.00 for Furniture and Fittings. However, a schedule showing all the furniture and fittings acquired in the financial year was not provided for audit review.

Management Response

County acknowledges the observation. At the time of this audit review, comprehensive assets register was being updated but did not have an amortization and depreciation policy. The County is in the process of developing an assets management policy to cater for the depreciation and amortization of assets.

Kshs.4,073,600.00 was procurement of Furniture and Fittings and a schedule has been provided for verification.

Committee Observations

The Committee observed that no comprehensive asset register was provided, and additions of Kshs.4,073,600 for furniture lacked schedules.

Committee Recommendations

The Committee recommends that –

- i. the Accounting Officer ensures that the City maintains an up-to-date asset register in accordance with section 149(2)(o) of the Public Finance Management Act Cap 412A and in the format prescribed by the Public Sector Accounting Standards Board (PSASB) and ;
- ii. The Accounting Officer should prepare an update asset register within 60 days of the adoption of this report and submit to the Auditor General for verification.

3.2 Valuation of Property, Plant and Equipment

The statement of financial position reflects non-current assets balance of Kshs.923,610,431 comprising of property, plant and equipment and work-in-progress balances of Kshs.436,434,420 and Kshs.487,176,011 respectively as disclosed in Note 6(a) to the financial statements. However, no documentary evidence was provided for audit to indicate the exact value of the assets since there was no valuation report from a recognized valuer.

In the circumstances, valuation in accordance with paragraph 49 of International Public Sector Accounting Standard (IPSAS) 17, property, plant and equipment, of the Municipality's assets, could not be confirmed.

Management Response

County acknowledges the findings. At the time of this audit, valuation of assets had not been undertaken. However, County is in the process of developing an assets policy that will guide on the valuation, amortization, depreciation of assets. The valuation of the assets that belonged to the Defunct Local Authority has not been finalized and is being undertaken by the National Government -IGRTC.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i. asset valuation report was not provided;
- ii. management failed to demonstrate how the value of assets as indicated in the financial statements was achieved since no valuation was done; and
- iii. the City does not have asset management policy to guide how assets are managed

Committee Recommendations

The Committee recommends that –

- i. the Governor should ensure that the City puts in place an asset management policy within 30 days of the adoption of this report to guide on the valuation, amortization, depreciation of assets;
- ii. the Governor should ensure that the valuation of all assets of the City is done and the valuation report is submitted to the Auditor-General for verification within 60 days of the adoption of this report. Further, the Accounting Officer responsible for the City should prepare and submit an updated assets register to the Auditor-General for verification. Auditor-General should provide a status update on the matter in the subsequent audit cycle.

4. Lack of Depreciation and Amortization Policy

The statement of financial performance and Note 3 to the financial statements reflects depreciation and amortization amount of Kshs.2,873,948. However, the Municipality did not provide a policy on depreciation and amortization.

In the circumstances, it was not possible to determine how the Municipality arrived at depreciation and amortization amount of Kshs.2,873,948.

Management Response

County acknowledges the finding. It is in the process of developing an assets management policy that will guide on the valuation, amortization and depreciation of assets.

Committee Observations

The Committee observed that the city does not have depreciation and amortization policy.

Committee Recommendations

The committee recommends that the board of City should prepare a depreciation and amortization policy within 60 days of the adoption of this report and submit to the Auditor General for verification and the Auditor General should provide a status update on the matter in the subsequent audit cycle.

5. Work-In-Progress

The statement of financial position reflects non-current assets balance of Kshs.923,610,431 comprising of property, plant and equipment and work-in-progress balances of Kshs.436,434,420 and Kshs.487,176,011 respectively as disclosed in Note 6 to the financial statements. The Work-In-Progress relates to upgrading of Sixty – Four (64) stadium in Eldoret Municipality. The project is being implemented by the County Executive of Uasin Gishu on behalf of the Municipality of Eldoret. However, the financial statements reflected that the amount paid under the project as at 30 June, 2024 was Kshs.684,620,331 which is at variance with the amount of Kshs.487,176,011 reflected in the statement of financial position and Note 6b to the financial statements resulting to an unexplained/unreconciled variance of Kshs.197,444,320.

In addition, the property, plant and equipment movement schedule reflect additions for the year amount of Kshs.81,202,286 which is at variance with the amount of Kshs.73,835,327 reflected in the County Executive of Uasin Gishu development ledger resulting to a variance of Kshs.7,366,959 which has not been explained or reconciled.

In the circumstances, the accuracy and completeness of property, plant and equipment could not be confirmed.

Management Response

Kshs.684,620,331 was in the narrative of the management report. However, the correct amount was Kshs.487,176,011 as reported in the statement of financial position.

Kshs.81,202,286 was the correct amounts for addition of property, plant and equipment during the year amount according to Municipality records

Committee Observations

A variance of Kshs.197,444,320 was noted in the stadium project records.

Committee Recommendation

The Committee recommends that the Accounting Officer responsible for the city should ensure that the errors observed are adjusted using the relevant journal entries and reflected as prior year adjustments in the financial statements of the subsequent financial year. Auditor General to provide a status update on the matter in the subsequent audit cycle.

Other Matter

Unresolved Prior Years Matters

In the audit report of the previous year various issues were raised under the Report on the Financial the statements and the report on Lawfulness and Effectiveness in the use of Public Resources However, the issues were not resolved and therefore they have remained outstanding.

Management Response

The finding has been noted. County appeared before the PAC Senate Session and presented the financial statements for the FY 2022/2023. We are awaiting the PAC recommendations from the deliberations.

Committee Observations

The Committee observed that the City had not resolved the issues raised in the previous year's audit.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(I) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public sources were not applied lawfully and in an effective way

1. Citizen Fora

Audit review of the records on compliance with the laws on the composition, conduct and reports of the citizen I revealed the following anomalies;

- i. The Municipality did not conduct citizen forum and therefore the citizens were not involved in the administration and management of the affairs of the Municipality contrary to Regulation 31 of the Urban Areas and Cities (General) Regulations, 2022 which establishes the membership of citizen I.

Management Response

During the period under review, the Municipality had conducted citizen forum to discuss on its operations and other management affairs.

- ii. The Board of the Municipality of Eldoret had not developed mechanisms for the participation of the residents of the Municipality in the management and administration of the Municipality contrary to Regulation 3.17.1 of the Urban Areas and Cities (General) Regulations, 2022 which requires the Board to develop of mechanisms for residents' participation.

Management Response

At the time of this audit review, the board was on the process of developing a mechanism strategy for public participation of the resident to guide on the composition of population such as having women, PWDs and youth. Some of the issues to be addressed are such cases when there are population categories not represented during the meeting, then it will not take off but will be adjourned.

- iii. No reports were prepared under Section 22 (4) of the Urban Areas and Cities Act, 2011 on the decisions made in respect of petitions or presentations made by citizen I and the reasons for such decisions.

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

Management Response

The observation has been noted. During the period under review, reports in respect of petitions or presentations made by citizen were in place but were availed late. The same has been availed for verification.

Committee Observations

The committee observed that at the time of audit, the municipality had not developed a strategy of public participation.

Committee Recommendations

The committee recommends that the board should ensure that the City develops a mechanism for public participation and approved within 90 days of the adoption of this report and evidence of the same submitted to the Auditor- General for verification.

CHAPTER THREE

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF ITEN TAMBACH FOR THE FINANCIAL YEAR 2023/2024

The Governor of Elgeyo Marakwet County, Hon. Wisley Rotich, appeared before the Committee on Thursday, 20th March, 2025, to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for Municipality of Iten Tambach for the financial year 2022/2023. He was accompanied by-

- | | |
|--------------------|---------------|
| 1. Monicah Rotich | -CECM-Health |
| 2. AlphanusK.Tanui | -CECM-Finance |
| 3. Thomas K Maiyo | -CECM Finance |

1. Inaccuracy of Cash and Cash Equivalents Balance

The statement of financial position reflects a cash and cash equivalent balance of Kshs, 448, 174 and as disclosed in Note 19 to the financial statement is on-Call deposit account at Kenya Commercial Bank with a balance of Kshs.403,500. However, the balance was not supported by cashbooks, certificate of bank balances and bank reconciliation statements.

In the circumstance, the accuracy and completeness of the cash and cash equivalents balance of Kshs.448,174 could not be confirmed.

Management responses

The amount **Sh.448,174** as disclosed in Note 19 to the financial statements consisted of;

Account no.	KShs.
1000240571	403,500
1000372238	1,185
1000413905	3,970
1260823156	39,519
Total	448,174

The amount of **Sh.403,500** included in the cash and cash equivalent figure of Ksh.448,174 relate to the 10% retention monies withheld in respect to Road Network Ltd. The amount was deposited in Elgeyo Marakwet County deposit account number **1000240571** held at Central Bank of Kenya and not at Kenya Commercial Bank

We confirm that Iten Tambach Municipality does not maintain a separate retention Bank account. The retention monies of **Sh.403,500** is included in **Sh. 101,382,146** held at the Central Bank of Kenya as at 30th June,2024

A copy of reconciliation statement, Cashbook extract, retention ledger, Bank statement for the Elgeyo Marakwet County deposit account number **1000240571** held at central Bank of Kenya as at 30th June,2024 were provided for review.

Committee Observations

The Committee observed that the municipality provided a Bank statement dated 26-Jan-2024 reflecting the deposit Sh.403,500 and supporting documents to the satisfaction of the Committee. However, the management was yet to open a separate account for the retention monies for the Municipality.

Committee Recommendations

The Committee recommends that within 30 days of the adoption of this report, the board ensures the municipality has opened a retention account and the Auditor-General provide status update in the subsequent audit cycle.

2. Budgetary Control and Performance

As reported in the previous year, the statement of comparison of budget and actual amount reflects revenue expenses and capital budget of Kshs. Nil, Kshs.1,151,718 and Kshs.6,095,085 respectively. However, Annual budget estimates of revenues and expenditures for the financial year were not prepared and approved by the County Assembly contrary to the provisions of Section 175(5) of the Public Finance Management Act, 2012 and Section 45(1) of Urban Areas and Cities Act, 2011 which states that town committee shall cause to be prepared estimates of the revenue and expenditure of board or town committee for that year the annual estimates shall be tabled before the Board or Town Committee for adoption and approval, the annual estimates approved by the Board or Town Committee under sub-section (3) shall be submitted to the Governor for submission to the County Assembly for its approval.

In the circumstances, accuracy of revenue, expenses and capital budget amounts of Nil balance, Kshs.1,151,718 and Kshs. 6,095,085 respectively could not be confirmed.

Further, the management was in breach of the law.

Management response

We confirm that the amount of Kshs1,151,718 and Kshs 6,095,085 relates to expenditure for Urban institutional grants(UGI) and Urban Development Grants(UDG) under the Kenya Urban Support Program(KUSP) which was rolled over in F/Y 2023/2024 and Copies of approved work plans provided for review and verification.

The amount was paid from the cash and cash equivalent figure of Kshs 9,950,197, which was available as at 30th June 2023 as disclosed in the notes to financial statements(see note 19).

Committee observations

The Committee observed that the Municipality's annual budget estimates were not tabled before the Board for adoption and approval and not submitted to the County Executive Member for Finance for onward submission to the County assembly

Committee recommendations

The Committee recommends that the board ensures the Municipality prepares its annual estimates, presents them for board adoption and approval and thereafter submitted to the County Executive Member for Finance for onward submission to the county assembly for approval.

OTHER MATTER

Unresolved Prior Year Audit Matters

In the audit report of the previous years, several issues were raised under the Report on Financial Statements, other matter, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Managements and Governance. Although the Management has indicated that all the issues have been resolved, no report or recommendations from the Management of the Municipality and oversight bodies were submitted for verification and clearance. Further, the issues remain unresolved contrary to Section 149(2)(1) of the Public Finance Management Act, 2012 which require accounting officers designated for county government entities to try to resolve any issues arising from an audit that remain outstanding.

Management response

The municipal management is taking appropriate measures to resolve prior year audit matters, for instance, the safety and health committee has been constituted. Appointment letters for the committee provided for review.

Committee Observations

The Committee observed that the municipality had unresolved prior year matters demonstrating management lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(1) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of**

section 199 of the Public Finance Management Act on penalties for offences may apply; and

- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public sources were not applied lawfully and in an effective way

2. Lack of Operational Independence of the Municipality

As reported in the previous year, the Iten Tambach Municipality was granted Municipal Charter on 28 December, 2018 which was supposed to grant operational independence from the County Government of Elgeyo Marakwet. However, review of the operations of the Municipality revealed that the Municipality's budget was prepared and controlled by the County Executive and there was no budget approval by the Municipality Board, with the exception of donor funded project accounts with joint signatories from the County Treasury, the Municipality's expenditure was controlled by the County Treasury and did not have independent operations account.

This is contrary to Section 9(1) of the Urban Areas and Cities Act, 2011, which states that the County Governor may, on the resolution of the County Assembly, confer the status of a Municipality on a town that meets the criteria set out in Subsection (3), by grant of a charter in the prescribed form. In addition, it contravenes Section 12(1) of the Urban Areas and Cities Act, 2011, which states that the Management of a city and municipality shall be vested in the County Government and administered on its behalf by a Board, a Manager appointed pursuant to Section 28 and such other staff or officers as the County public service may determine.

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

Management response

The funds allocated to Iten Tambach Municipality for the financial year 2023/2024 were budgeted by the County executive under the department of Lands, housing and urban development and approved as part of the consolidated county budget. The Municipality has a board and a manager vested with the responsibility of management of the

Municipality. The Municipality management commits to open an operation account and prepare a separate budget.

Committee Observations

The Committee observed that during the year under review, Iten Tambach municipality fail to have its budget prepared and failed to independently operate of the County Executive since its resources were budgeted under the department of Lands, Housing and Urban Development.

Committee Recommendations

The Committee recommends that the Governor of Elgeyo Marakwet County takes all the necessary steps to ensure the Iten Tambach Municipality achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act.

2. Failure to Observe Equity on Board Composition

As reported in the previous year, the Municipality had six (6) Board Members out of which five (5) Members were of the same gender contrary to Section 13(3) of Urban Areas and Cities Act, 2011 which requires that the executive committee shall, while appointing members of the Board, ensure gender equity, representation of persons with disability, youth and marginalized groups.

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

Management response

At the time of audit, one female member of the board had been nominated to the county assembly therefore affecting the board composition. The board has since been re-constituted to ensure that there is gender equity and youth and marginalized groups are represented. List of the newly appointed board members of Iten Tambach Municipality vide Gazette notice number **16316** has been provide for review to indicate board re-constitution.

Committee observation

The Committee observed that the Governor has re-constituted to mitigate the matter and the board of the municipality was compliance with Section 13(3) of Urban Areas and Cities Act, 2011 Board composition.

Committee recommendations

Noting the mitigation undertaken by the Governor, the Committee recommends that the matter be marked as resolved.

3. Lack of an Approved Integrated Development Plan

The Municipality was established with an approved Urban Area Integrated Development Plan 2019- 2023 which however, has expired. Further, it was established that the Management had not started developing another one for the year under review. This is contrary to the requirements of Section 36 of the Urban Areas and Cities Act, 2011(1) which states that every city and municipality established under this Act shall operate within the framework of integrated development planning which shall-(a) give effect to the development of urban areas and cities as required by this Act and any other written law.

In addition, the Board did not carry out an annual review of the Integrated Development Plan to assess its performance in accordance with performance management tools. This is also contrary to the requirements of Section 42 of the Urban Areas and Cities Act, 2011 which states that a city or municipal board shall review its integrated development plan annually to assess its performance in accordance with performance management tools set by it under this Part, and may amend the plan where it considers it necessary.

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

Management response

The Urban Integrated Development Plan was for the period 2019-2023. The new board is in the process of developing a municipality integrated development plan (IDEP) for the period 2025-2030. The County submitted copies of work plan, Urban institutional grant work plan providing for cost of preparation of IDEP for the period 2025-2030.

Committee observations

The Committee noted that the Urban Area Integrated Development Plan 2019- 2023 of ITEN Municipality had expired at the time of audit.

Committee recommendations

The Committee recommends that—

- i. **The Board of Directors ensures strict adherence to the provisions of section 42 of the Urban Areas and Cities Act, 2011, failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply.**
- ii. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9 (1) I of the Public Audit Act, Cap.412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62 (2) of the Public Audit Act, Cap.412B.**

4. Failure to Observe Safety Requirements at the Workplace

As previously reported, Iten Tambach Municipality has not established a safety and health committee at the workplace as required under Section 9(1) of the Occupational Safety and Health Act, 2007. Further, Management did not provide a safety and health audit report as required under Section 11(1) which stipulates that the occupier of a workplace shall cause a thorough safety and health audit of his workplace to be carried out at least once in every period of twelve months by a safety and health advisor.

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

Management responses

The Municipality has Safety and health committee in place.

Committee observation

The Committee noted that the municipality has not established a safety and health committee at the workplace as required under Section 9(1) of the Occupational Safety and Health Act, 2007

Committee recommendation

The Committee recommends that the municipality establishes a safety and health committee within 60 days of the adoption of this report and strictly adheres to Section 9(1) of the Occupational Safety and Health Act, 2007.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Lack of Approved staff establishment

The municipality has staff establishment approved by the county public service board.

Committee Observations

The Committee noted that the municipality has since approved a staff establishment.

Committee Recommendations

Noting the mitigation measures, the committee recommends the matter be marked as resolved.

CHAPTER FOUR

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF KAKAMEGA FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kakamega County, Hon. FCPA Fernandes Barasa, OGW, appeared before the Committee on Tuesday, 25th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Kakamega for the Financial Year 2023/2024. He was accompanied by

- | | |
|----------------------------|-----------------------------|
| 1. Peninah Mukabane | - CECM- Water & Environment |
| 2. Vivanne Mmbaka Komwonyo | -County Attorney |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified opinion** on the financial statements of the Municipality of Kakamega for the period under review on the following basis;-

1.Unconfirmed Property, Plant and Equipment Balance.

The statement of financial position and Note 17 to the financial statements reflect property, plant and equipment balance of Kshs.305,624,744, after providing for depreciation and amortization amount of Kshs.16,548,682. However, Management has applied the depreciation rate of 5% on road construction yet no depreciation policy has been put in place in relation to roads construction. Further, the Municipality had constructed a market at Sichirai center on a parcel of land whose ownership documents were not provided for audit review.

In the circumstances, the accuracy, completeness and ownership of the property, plant and equipment balance of Kshs.305, 624,744 as at 30 June, 2024 could not be confirmed.

Management response

Explanation on why management used a depreciation rate of 5% on road construction yet there was no depreciation policy.

Kakamega Municipality has not yet developed a depreciation policy, however the Municipal board adopted the National Treasury policy on depreciation which provides a rate of 5% on road construction which is in line with IPSAS policy number 45.

Note number 17 on Property Plant and Equipment (PPE) shows how the rate of 5% was applied under road construction. Management has provided extract of the depreciation policy from the National Treasury for your audit review.

Explanation on why the Municipality constructed a market at Sichirai Center on a parcel of land whose ownership documents were not provided for audit review.

The ownership documents (land title deeds and logbooks) for County assets are kept in safe

custody at Kenya Commercial Bank Kakamega Branch (KCB) including all the title deeds. It took time to retrieve the title deed from the bank since it required several approvals before release which subsequently was submitted to the auditor late when the audit process was on its final stage.

However management has provided land ownership documents.

Committee Observations

The Committee noted that—

- i. The municipality has applied the depreciation rate of 5% on road construction yet no depreciation policy has been put in place in relation to roads construction
- ii. Whereas ownership documents of the parcels of land were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act. a parcel of land whose were not provided for audit review.

Committee Recommendations

The Committee recommends that the municipality within 60 days of the adoption of this report develop and implement a depreciation policy and submit the same to the Auditor-General for verification.

The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

2.Unconfirmed Depreciation charge for the year and Depreciation Policy.

The statement of financial performance and Note 12 to the financial statements reflect depreciation and amortization expenses amounting of Kshs.7,666,850. However, Management has indicated that Municipality applies reducing balance method for depreciating its assets.

However, the Management used straight line depreciation method for depreciating buildings, and plant and machinery at Kshs.1,301,649 and Kshs.2,520,000 respectively for the current and previous financial years. Further, the depreciation method used to determine the depreciation charge for the roads construction of Kshs.3, 845,201 could not be ascertained.

In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.305, 624,744 as at 30 June, 2024 could not be confirmed.

Management response

Explanation on why management indicated that Municipality applies reducing balance method for depreciating and used straight line depreciation method for buildings, and plant and machinery.

Management applied a straight line method of depreciation as shown in the table for Property Plant and Equipment. Management inadvertently made a mistake in the narrative after the table of Property Plant and Equipment by stating that it used a reducing balance method. The Net book value computed was based on the straight line method.

Management has noted the mistake and will ensure that in subsequent years proper quality reviews are carried out by the Financial Reporting Unit to identify and correct such mistakes before submission of the final report.

Explanation on the depreciation method used to determine the depreciation charge for the

roads construction of Kshs.3, 845,201

Management applied a straight line method of depreciation as shown in the table for Property

Plant and Equipment on road construction column 2 at a rate of 5% and has provided a schedule

showing how the Kshs.3, 845,201 was computed.

Committee Observations

The Committee noted that the municipality had not developed a depreciation policy.

Committee Recommendations

The Committee recommends that the municipality within 60 days of the adoption of this report develop and implement a depreciation policy and submit the same to the Auditor-General for verification.

3.Inaccuracy in the Statement of Comparison of Budget and Actual Amounts.

The statement of comparison of budget and actual amounts reflects actual receipts from the County Government of Kshs.113,014,201 while the statement of financial performance shows transfers from County Government balance of Kshs.90,819,642 resulting to unexplained variance of Kshs.22,194,559. Further, the budget statement indicates actual receipts from public contributions (Kenya Urban Support Programme) balance brought forward of Kshs.14,680,983.

However, the financial statements for the year ended 30 June 2023 did not show any receipts or

balance carried forward from Kenya Urban Support Programme.

In addition, the budget statement reflects surplus for the year amount of Kshs.29,185,988 while the statement of financial performance shows a deficit of Kshs.7,689,554 resulting to unexplained and unreconciled variance of Kshs.36,875,542.

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

Management response

Explanation on variance of Ksh. 22,194,559

Municipality received Kshs 113,014,201 from the County Executive as shown in the statement of comparison of budget and actual amounts. This comprised of Kshs.90, 819,642 for recurrent expenditure as reported under the statement of financial performance (page no.1) and Kshs.22, 194,559 for development expenditure (Capital projects) as reported in the statement of changes in net assets (page no.4).

The auditor may have picked the amount reported in the statement of financial performance of

Kshs.90, 819,642 leaving out Kshs.22, 194,559 reported in the statement of changes in net assets.

Therefore management concludes that there was no variance of Kshs.22, 194,559.

Explanation on balance brought forward of Kshs.14, 680,983

The amount of Kshs.14, 680,983 reported in the statement of comparison of budget and actual

amounts was brought forward from the audited financial statement for the year FY 2022/2023

under Urban Support Programme.

The amount is shown in the statement of financial position under note number 16 in FY

The difference of Kshs. 36,875,542 arose because the statement of financial performance did not

recognize the balance brought forward of Kshs. 14,680,983 and the development funds of

Kshs.22, 194,559 hence the variance.

Committee Observations

The Committee noted that there was an unexplained variance of Kshs.22,194,559 in statement of financial performance showing amounts of Kshs.90,819,642 and The statement of comparison of budget and actual amounts reflecting Kshs.113,014,201.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and**
- iv. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements**

4.Unconfirmed Transfers from County Government

The statement of financial performance reflects transfers from the County Government amounting to Kshs.90,819,642 as disclosed in Note 6 to the financial statements, being Kshs.12,000,000 in respect of transfers from County Government and Kshs.78,819,642 for payments by County on behalf of the entity. However, the financial statements of the County Executive reflect a transfer of Kshs.34,194,559. The resulting variance of Kshs.22,194,559 which has not been explained or reconciled.

In the circumstances, the accuracy and completeness of the transfers from the County Government amounting to Kshs.90, 819,642 could not be confirmed.

Management response

Explanation of the variance of 22,194,559

The variance of kshs.22,194,559 was amount meant for capital expenditure and was recognized in the statement of changes in net assets. The auditor may have considered only amount as reported in the statement of financial performance under note number 6 of Kshs.12, 000,000 and did not include Kshs.22,194,559 as reported in the statement

of changes in net assets. The Kshs.22, 194,559 and Kshs.12, 000,000 totals to Kshs.34, 194,559 as shown in the County executive financial statements.

Management concludes that there was no variance of Kshs.22,194,559.

Committee Observations

The Committee noted that there was a variance of Kshs.22,194,559 where the financial statements of the County Executive reflect a transfer of Kshs.34,194,559 and the statement of financial performance reflects transfers from County Government and Kshs.78,819,642 for payments by the County.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and
- iv. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements

5. Anomalies in the Annual Report and Financial Statements.

Review of the annual report and financial statements of the Kakamega Municipality revealed inaccuracies and non-compliance with the revised International Public Sector Accounting Standards (IPSAS) financial reporting template for 2023/2024 financial year, as detailed here below.

- (ii) The Management discussion and analysis report on page xxiii has not been numbered resulting to inconsistencies of numbering subsequent headings.

The statement of financial position reflects capital/development grant/fund balance of Kshs.22,194,559 which has not been explained or analyzed by way of a Note to the financial statements.

In the circumstances, the financial statements are not prepared according to the requirements of the Public Sector Accounting Standards Board templates.

Management response

(i) Explanation on why management discussion and analysis report on page xxiii was not numbered

The error arose during printing and was not noticed. Management shall ensure that in future proper quality reviews are done by the Financial Reporting Unit to detect and correct such errors before submission.

However the error in the numbering did not affect the financial statements.

(ii) Explanation on why Kshs.22,194,559 was not analyzed by way of a Note to the financial statements.

The Kshs. 22,194,559 was capitalized in the statement of changes in net assets page number 4 of the audited financial statements. The template from the International Public Sector Accounting Standards Board (IPSASB) has no provision for an additional note since it is well explained in the statement of changes in net assets as a line item (Funds received during the year). Separate schedule is provided to support its breakdown.

Committee Observations

The Committee observed that the financial statements were not prepared in accordance with International Public Sector Accounting Standards (IPSAS).

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of

- the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and
 - iv. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements

Emphasis of Matter

1.Budgetary Control and Performance.

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on comparable basis of Kshs.145,676,023 and Kshs.127,695,184 respectively, resulting to under-funding of Kshs.17,980,839 or 12% of the budget.

Similarly, the Municipality

expended Kshs.122,660,500 against a budget of Kshs.145,676,023 resulting to under-performance of Kshs.23,015,523 or 16% of the budget.

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

Management response

Explanation on the underfunding of Kshs. 17,980,839 or 12%

The Underfunding was occasioned by delayed remittance of equitable share from the National Treasury which in turn affected transfers to the Municipalities.

Explanation of under-performance of Kshs.23, 015,523 or 16%

Underperformance was mainly caused by delayed remittance of equitable share from the National Treasury.

Committee Observations

The Committee noted that there was under-funding of Kshs.17,980,839 or 12% of the budget and under-performance of Kshs.23,015,523 or 16% of the budget.

Committee Recommendations

The Committee recommends that—

- i. The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the

- financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- ii. The Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

2.Non-Collection of Own Generated Revenue.

The statement of financial performance indicates that the Municipality was financed solely through revenue allocated by the County Government. Section 9 (3) of the Urban Areas and Cities Act, 2011 requires that Municipality status be conferred after satisfying criteria which include demonstrable revenue collection or revenue collection potential. However, it is probable that the conferment of Municipal status may have been made to Kakamega Municipality without satisfying criterion of demonstrable revenue collection or revenue collection potential.

In the circumstances, the Municipality may not achieve its objectives and goals as outlined in the Charter.

Management response

Kakamega Municipality revenue collection potential is well demonstrated in the Kakamega

County Revenue Agency plan where Municipalities have been given mandates and targets to

collect revenues within their jurisdiction. Kakamega County Revenue Agency has seconded staff

to the Kakamega Municipality for revenue collection and are supervised by the Municipal

Manager.

Committee Observations

The Committee noted that the Municipality was financed solely through revenue allocated by the County Government.

Committee Recommendations

The Committee recommends that the Municipality should strictly adhere to provisions of Section 9(3) of the Urban Areas and Cities Act, 2011, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

Unresolved Prior Year Matters

In the audit of the previous year, several issues were reported under the Report on the Financial

Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However,

Management has not resolved the issues or given reasons for the delay in resolving the issues.

Management response

Management has implemented most of the recommendations on issues raised in the prior year after

taking into consideration the recommendations made during interrogation by Public Investment

and Special Funds Committee of the Senate. Management has provided a summary schedule of

prior year audit issues indicating the status of resolutions.

Committee Observations

The Committee observed that the Municipality had not resolved the issues raised in the previous year's audit.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

Other Information

Basis for Conclusion

1. Lack of Operational Autonomy of Kakamega Municipality.

During the year under review, it was observed that only office operations were carried out by the Municipality Board while project implementation was carried out by the County Executive through the Department of Lands, Housing, Urban Areas Development and Physical Planning.

This was contrary to Section 21(1)(a) of the Urban Areas and Cities Act, 2011 which gives Municipalities executive authority as delegated by County Executives.

In the circumstances, Management was in breach of the law

Management Response

County Executive is in the process of granting full autonomy to Kakamega Municipality. The

following steps have been taken to ensure Kakamega Municipality gains its full autonomy.

i) Appointment of Municipality Board vide gazette notice number 10370 dated 2/8/2023,

(ii) Gazettement of assigned functions through gazette notice no.6225 of 12/5/2023

iii) Appointment of Municipal Manager and designating as accounting officer for the Municipality.

(iv) Secondment of key technical staff in departments within Kakamega Municipality
These measures are aimed at ensuring full autonomy of the Municipality in compliance with Section 21(1)(a) of the Urban Areas and Cities Act, 2011, amended 2019.

Committee Observations

The Committee observed that the operations of the Municipality lacked autonomy which contravention of Section 9(1) of the Urban Areas and Cities Act, 2011.

Committee Recommendations

The Committee recommends that the Governor of Kakamega County takes all the necessary steps to ensure the Municipality of Kakamega achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, cap.275 and the Auditor General to verify the implementation of this recommendation in the next audit cycle.

2. Operating Municipality without an Approved Budget.

During the year under review, the Municipality operated without an approved budget. Consequently, the source and approval of the amounts reflected in the statement of comparison of

budget and actual amounts, including total expenditure for the year of Kshs.122,660,500 could not

be ascertained. This was contrary to Section 20(1)(l) of the Urban Areas and Cities Act, 2011 which requires a Board of a Municipality to prepare and submit an annual budget to the relevant

County Treasury for consideration and submission to the County Assembly for approval.

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

Management response

Kakamega Municipality's budget was prepared by the Board which in turn submitted to the County Treasury for consolidation through the parent ministry of Lands, Housing, Physical Planning and Urban Development. The budget was then approved by the cabinet and the County Assembly as part of the annual County appropriation bill in line with section 20(1)(l) of the Urban Areas and Cities Act, 2011.

Committee Observations

The Committee noted that the Municipality operated without an approved budget.

Committee Recommendations

The Committee recommends that the Municipality strictly adheres to Section 20(1) (l) of the Urban Areas and Cities Act, 2011, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply.

Basis for Conclusion**Lack of Risk Management Policy Framework.**

During the year under review, the Municipality operated without a documented risk management policy framework that would provide the guidelines on how to identify and mitigate operational and other risks the Municipality faces contrary to Regulation 158 (1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which state that the Accounting Officer shall ensure that the County Government entity develops risk management strategies, which include fraud prevention mechanism; and a system of risk management and internal control that builds robust business operations.

In the circumstances, the failure to develop a risk management policy exposes the Municipality to risk and in the event of occurrence, there may not be strategies to counter the risks.

Management response

The board has not yet developed a risk management policy, however it resolved to adopt a policy from the County Executive.

Committee Observations

The Committee observed that the Municipality did not have a Risk management policy.

Committee Recommendations

The Committee recommends that the Board of Directors ensures that the Municipality puts in place all internal control systems such as a Risk Management

Policy as provided under section 158 (1) of Public Finance Management (County Governments) Regulations, 2015 among others to guide the internal operations of all the funds. Further, the management to submit evidence of the same to the Auditor-General for verification.

CHAPTER FIVE

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF KAPSABET FOR THE FINANCIAL YEAR 2023/2024

The Governor of Nandi County, Hon. Stephen Kipyego Sang, EGH, appeared before the Committee on Thursday, 13th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Kapsabet for the Financial Year 2023/2024. He was accompanied by –

- | | |
|------------------------------|-------------------|
| 1. Dr. Jackline Chepchirchir | -CECM-Health |
| 2. Caroline Laga | - CO, Finance ERP |
| 3. Amb. Francis Sang | -County Secretary |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified opinion** on the financial statements of the Municipality of Kapsabet for the period under review on the following basis:-

1. Inaccuracies in the Financial Statements

Review of the financial statements revealed that were prepared and submitted for audit revealed the following inaccuracies;

- i. The property, plant and equipment movement schedule at Note 24 was not prepared in the prescribed format and therefore, it was not possible to confirm additions of property, plant and equipment of Kshs.39,511,222 and net assets value of Kshs.142,469,334.
- ii. The statement of financial position and the statement of changes in net assets indicates capital development grants of Kshs.58,291,174 and accumulated surplus of Kshs.94,616,882 which were not supported in the Notes to the financial statements.
- iii. The statement of changes in net assets indicates accumulated surplus opening balance of Kshs.94,830,900 which is at variance with the prior year balance of Kshs.94,872,306.

In the circumstances, the accuracy and completeness of the balances of property, plant and equipment, the capital grants, and accumulated surplus could not be confirmed.

Management Response

The above concerns have been restated in the Financial Statements in accordance with International Public Sector Accounting Standards (IPSAS) 3 on Accounting Policies, Changes in Accounting Estimates and Errors; and will subsequently be incorporated in the financial reports for the year ending June 2025.

Committee Observations

The Committee observed that the financial statements were not prepared in accordance with International Public Sector Accounting Standards (IPSAS).

Committee Recommendations

The Committee recommends that—

- i. the County Executive Committee Member responsible for finance ensures compliance with section 105(1)(d) and (g) of the Public Finance Management Act, Cap. 412A with respect to enforcement of compliance by county entities with all applicable norms or standards regarding accounting practices as prescribed by the Accounting Standards Board, failure to which the penalties under section 199 of the Act shall apply;
- ii. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
- iv. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and
- v. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.

2. Cash and Cash Equivalent

The statement of financial position reflects cash and cash equivalents balance of kshs.10,438,722 as disclosed in Note 19 to the financial statements. However, review of the cashbook revealed that it was not being checked and signed by the expenditure accountant.

Further, bank statements provided for review revealed that there were receipts under Kapsabet Municipality UDG Account in a Commercial Bank totaling to Kshs.13,983,959 from UDG Special Purpose Account. However, these receipts were not recorded in the cashbook.

In addition, it was noted that under Nandi County UIG account bank statement, a transfer of Kshs.1,194,559 from UIG Special Purpose Account received during the year was not recorded in the cashbook.

Also, it was noted that bank reconciliation statements for the two (2) banks accounts and certificate of bank balances as at 30 June, 2024 were not provided for audit review.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.10,438,722 could not be confirmed.

Management Response

The cash and cash equivalents balance of Kshs. 10,438,722 mentioned above has been checked in the cashbook and is now duly signed by the expenditure accountant.

Further, the receipts of Kshs. 13,983,959 from UDG Special Purpose Account has been recorded in the cashbook accordingly.

In addition, the transfer of Kshs. 1,194,559 from UIG Special Purpose Account has been recorded in the cashbook and the bank reconciliation statements for the two (2) banks accounts and certificate of bank balance as at 30 June, 2024 have been availed.

The County Government has put in internal controls to ensure fair presentation of financial reports including staffing of critical sections of the Municipality.

Committee Observations

The Committee observed that although the necessary corrections were made, the corrections could only be undertaken as a prior year adjustment in the financial statements of the subsequent year. Further, the Committee observed that there were weak internal control systems in checking the accuracy of the books of account.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure**

- to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer ensures that prior year the Accounting Officer ensures that prior year adjustments are carried out in the company's financial statements of the subsequent year to correct the errors in order to reflect the true financial position of the company;
- iii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
- iv. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;
- v. the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)€ of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle;
- vi. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements; and
- vii. the County Executive Committee Member (CECM) – Finance ensures that the Municipality puts in place all internal control systems such as the Internal Audit Committee as provided under section 155 (5) of the Public Finance Management Act, 2012, among others to guide the internal operations of the Municipality.

3. Material Uncertainty Related to Going Concern

The Kapsabet Municipality was issued Municipality Charter on the 23 March, 2018 however, the functions and responsibilities of the municipality as outlined under Section 6 (a to r) of the Urban and Cities Act, No. 13 of 2011 are performed by the County Executive of Nandi. Lack of independence and operational autonomy casts doubt on the going concern of the Municipality.

Management Response

The County Government of Nandi, having realized that the previous Board team had failed to meet the expectations of the Municipality, has since recruited a new Board who carry out their mandate as stipulated in the Urban and Cities Act, No. 13 of 2011.

The Municipality has recruited a substantive Manager to oversee the daily operations and implement the board strategic decisions and budgetary obligations.

Further, the Board recently advertised additional staff to address the human resource needs in its critical sections. The County Government will continue to facilitate the independence of the Municipality.

Committee Observations

The Committee observed that the operations of the Municipality lacked autonomy which contravention of Section 9(1) of the Urban Areas and Cities Act, 2011.

Committee Recommendations

The Committee recommends that the Governor of Nandi County takes all the necessary steps to ensure the Municipality of Kapsabet achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, cap.275 and the Auditor General to verify the implementation of this recommendation in the next audit cycle.

EMPHASIS OF MATTER

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a revenue final budget and actual on comparable basis of Kshs.50,204,051 and Kshs.50,204,051 resulting to Nil variance. Similarly, the Municipality expended Kshs.39,765,329 against actual receipts of Kshs.50,204,051 resulting into an under expenditure of Kshs.10,438,722 or 21% of the actual receipts. It was noted that totals for expenses were erroneously reported as Kshs.49,949,944 instead of Kshs.254,107 resulting to a variance of Kshs.49,695,837. It was also noted that performance difference in revenue was erroneously reported as 50,204,051 instead of Nil balance and the capital expenditure was not properly presented in the statement of comparison of budget and actual amounts.

Further, the report of the Municipality Manager on page ix under non-financial information reflects a revenue budget of Kshs.104,111,265 which is at variance with the budget reflected in statement of comparison of budget and actual amounts of Kshs.50,204,051.

In addition, the Nandi County Government supplementary II budget reflected a development expenditure budget of Kshs.57,000,000 and recurrent expenditure budget of Kshs.14,330,000 for the Municipality all totaling to Kshs.71,330,000 and this variance has not been explained.

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

Management Response

The totals for expenses which were erroneously reported as Kshs. 49,949,944 instead of Kshs. 254,107 resulting to a variance of Kshs. 49,695,837 has been corrected. Further, the performance differences in revenue which was erroneously reported as 50,204,051 instead of Nil balance and the capital expenditure which was not properly presented in the statement of comparison of budget and actual amounts has been restated accordingly in accordance with IPSAS 3 guidelines.

In addition, the variance of Kshs. 32,781,265 in the budget amounts mentioned in the report of the Municipality Manager of Kshs. 104,111,265 compared to the amounts in the Nandi County Government supplementary II budget of Kshs. 71,330,000 was occasioned by a budgetary reduction in the supplementary II.

Through the staffing of the Municipality's critical sections, it is endeavored that these inconsistencies will not occur in future.

Committee Observations

The Committee noted that the municipality had an under expenditure of Kshs.10,438,722 or 21% of the actual receipts. The Nandi County Government supplementary II budget had a variance that was not explained.

Committee Recommendations

The Committee recommends that—

- i. **The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. **The Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of**

section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

1.0 Unresolved Prior Years Matters

In the audit report of the previous year, Kapsabet Municipality had a Disclaimer of Opinion and various issue were raised. However, the issues have remained outstanding to date.

Management Response

The Audit Committee of the Municipality has considered the Prior Year Audit Matters and given recommendations for action by the management.

Committee Observations

The Committee observed that the Municipality had not resolved the issues raised in the previous year's audit.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1.0 Presentation and Disclosures in the Financial Statements

Review of the financial statements prepared and submitted by the Fund Management revealed that they were not prepared in accordance with the reporting template provided by the Public Sector Accounting Standards Board (PSASB) for 2023-2024 year of

reporting. Anomalies in the presentation of the financial statements included the following;

- i. Photographs and profile of Kapsabet Municipality Board members were missing
- ii. Key Management team and profile are missing at page vii.
- iii. Table of contents indicates Municipality Board's chairperson report on page viii whereas the page is titled 'CECM Administration, Public Service and ICT report on behalf of the Municipality. The report is equally not signed.
- iv. Page xv under environmental and sustainability reporting is blank.
- v. Environmental and sustainability reporting appears twice on the table of contents.
- vi. Report of the Municipality Board Members on page (xix) is not signed.
- vii. The Statement of the Management's Responsibilities on page(xx) is not signed by the CECM Administration Public Service and ICT
- viii. Prior year audit matters were raised and how they were dealt with has not been indicated under Appendix I and the page 45 is not signed by the accounting officer and the dates of approval of the financial statements has not been indicated.
- ix. Prior year audit matters were raised and how they were dealt with has not been indicated under Appendix I and the page 45 is not signed by the accounting officer.
- x. The statements of financial performance and financial position only bears the signature of the accountant who did not indicate his ICPAK number, the financial statements were signed by the Acting Municipal Manager instead of Municipal Manager.

In the circumstances, the presentation of the financial statements was not in accordance with the prescribed reporting standards.

Management Response

The above concerns have been restated in the Financial Statements in accordance with International Public Sector Accounting Standards (IPSAS) 3 on Accounting Policies, Changes in Accounting Estimates and Errors; and will subsequently be incorporated in the financial reports for the year ending June 2025.

Committee Observations

The Committee observed that the financial statements were not prepared in accordance with the reporting template provided by the Public Sector Accounting Standards Board (PSASB).

Committee Recommendations

The Committee recommends that—

- i. the County Executive Committee Member responsible for finance ensures compliance with section 105(1)(d) and (g) of the Public Finance Management Act, Cap. 412A with respect to enforcement of compliance by county entities with all applicable norms or standards regarding accounting practices as prescribed by the Accounting Standards Board, failure to which the penalties under section 199 of the Act shall apply;**
- ii. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- iii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;**
- iv. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and**
- v. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.**

2.0 Lack of Operational Independence of the Municipality

As previously reported the Municipality of Kapsabet was granted a Municipality Charter on 9 April, 2018 which granted operational independence from the County Government of Nandi. However, review of the operations revealed lack of autonomy in the budget and the municipality is controlled by the County Executive under the department of Public Administration and the approval of budget was not done by the Municipal Board.

Further, due to lack of operation independence, the Municipality did not carry out function outlines in Sec 6 (a to r) of the Urban Areas and Cities Act, No. 13 of 2011.

In addition, the Municipality depends on County staff because the staff structure approved by the County Assembly is not in place and the number of personnel to be appointed in various positions had not been determined and no placements had been done. In addition, there was lack of independence in that the expenditure is controlled at the County Treasury. Except from project accounts with joint signatories from the County Treasury, the Municipalities expenditure is controlled by the County Treasury and did not have independence of operations account.

This contrary to Section 9(1) of the Urban Areas and Cities Act, 2011 which states that the County Governor may, on the resolution of the County Assembly, confer the status of a Municipality on a town that meets the criteria set out in Subsection (3), by grant of a charter in the prescribed form. In addition, it contravenes Section 12(1) of the Urban Areas and Cities Act, 2011 which states that the Management of a city and Municipality shall be vested in the County Government and administered on its behalf by a Board, a Manager appointed pursuant to Section 28 and such other staff or officers as the County Public Service may determine.

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

Management Response

The County Government of Nandi, having realized that the previous Board team had failed to meet the expectations of the Municipality, has since recruited a new Board who carry out their mandate as stipulated in the Urban and Cities Act, No. 13 of 2011.

The Municipality has recruited a substantive

Manager to oversee the daily operations and implement the Board strategic decisions and budgetary obligations.

Further, the Board recently advertised for additional staff to address the human resource needs in its critical sections. The County Government will continue to facilitate the independence of the Municipality.

Committee Observations

The Committee observed that the operations of the Municipality lacked autonomy which contravention of Section 9(1) of the Urban Areas and Cities Act, 2011.

Committee Recommendations

The committee recommends that the Governor of Nandi County takes all the necessary steps to ensure the Municipality of Kapsabet achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management

independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, cap.275 and the Auditor General to verify the implementation of this recommendation in the next audit cycle.

3.0 Unapproved Organizational Chart

The Kapsabet Municipality organizational chart provided for review was not supported by approving minutes of the Nandi Municipal Board neither was it signed by the chairman of the Municipality Board. In addition, whereas the organizational chart indicates various departments such as; gender and social services, health/ Environment, civil engineering, Disaster management, trade and transport, HR and administration, legal services, ICT and e-governance, finance and Supply Chain Management and Internal Audit headed by departmental heads, there were no such departments in place.

In the circumstances, it was not possible to confirm how certain activities were directed to achieve goals of the Municipality. Further, it was not possible to determine how information flows between levels within organization.

Management Response

During the year under review, the Municipality was in the process of developing an organizational chart which was finalized and approved by the Board.

Committee Observations

The Committee observed that the organizational chart was finalized and approved by the board.

Committee Recommendations

The Committee recommends that the Auditor-General confirms the approval of the organizational chart and provides a status update on the same during the subsequent audit cycle.

4.0 Lack of an Approved Human Resource Policy Manual and Staff Establishment

As previously reported, review of the human resource records revealed that the Municipality did not have an approved Human Resource Policy Manual and an approved staff establishment. This is contrary to the Human Resource Policies and Procedures Manual for the Public Service 2016, Section B2(1) which states that every Ministry/State Department shall prepare human resource plans to support achievement of goals and objectives in their Strategic plans. The plans shall be based on

comprehensive job analysis and shall be reviewed every year to address emerging issues and needs.

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

Management Response

During the year under review, the Municipality was in the process of developing a Human Resource Policy Manual and staff establishment which was finalized and approved by the Board.

Committee Observations

The Committee observed that the municipality did not have an approved Human Resource Policy Manual and an approved staff establishment.

Committee Recommendations

The Committee recommends that the municipality develops, approves and implements a Human Resource Policy Manual and staff establishment within 60 days of the adoption of this report and submit evidence to the Auditor-General.

5.0 Lack of Municipality Board

Review of the Municipality records provided for audit revealed that Kapsabet Municipality did not have a board during the period under review and there were no annual budget estimates prepared, approved by the Board and submitted to the County Treasury for consideration. Further, it was noted that the Municipality neither had by-laws in place nor recommendations made to be included in by-laws. In addition, there were no Board meetings held for Municipality of Kapsabet during the period under review.

This is contrary to Section 14 of the Urban Areas and Cities Act, 2011 which states that Municipality Board shall comprise nine members of whom four shall be appointed and five elected in the prescribed manner. Further, Section 20(i) of the Urban Areas and Cities Act, 2011 which states that one of the functions of the Board shall be to prepare and submit its annual budget estimates to the relevant County Treasury for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill. In addition, Section 21(f) of the Urban Areas and Cities Act, 2011 which states that the powers of the Board shall be to make bye-laws or make recommendations for issues to be included in bye-laws and Section 23(1) of the Urban Areas and Cities Act, 2011 which states that A board shall hold its sittings to transact the business of the Board once every three months.

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

Management Response

The Municipality has a Board in compliance with Section 14 of the Urban Areas and Cities Act, 2011 and is the top policy organ of the Municipality.

Committee Observations

The Committee noted that the Municipality did not have a board at the time of audit. However, the board was put in place in 1st July 2024.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the matter be marked as resolved.

6.0 Irregular Variation of Contract for the Proposed Construction of a Fresh Produce Market

The County Government of Nandi through the Department of Administration, Public Service and e-Government entered into a contract for proposed construction of a fresh produce market at Jua-Kali area, Kapsabet on the 31 March, 2022 at a contract sum of Kshs.92,509,873. The project execution and completion were expected to take twelve (12) months from 31 March, 2022 to 31 March, 2023. Audit review established that the contractor had been paid the total contract sum of Kshs.92,509,872.

However, it was noted that three (3) contract extension periods were requested by the contractor and were granted by the County Government. The first extension period was for eighteen weeks (18), the second was for five (5) months and the third was for forty (40) weeks but as at the time of audit in November, 2024 the contract had not been completed. In addition, performance bonds were not renewed in tandem with the contract extensions granted.

An addendum to extension of contract period and variations to contract for the contract agreement was later entered into between Kapsabet Municipality and the Contractor for Kshs.22,970,940 on the 6 February, 2024 for another period of twelve (12) months to February, 2025 translating to 24.8% of the contract sum without proper justification as the project was coming to a completion.

The contract had the following anomalies and irregularities;

- i. All payment certificates for the initial contract sum were never accompanied by valuation reports and inspection and acceptance certificates as required by Public Procurement and Asset disposal Act, 2015

- ii. There was no evidence of contract variation initiation and neither was their variation order by the Architect.
 - iii. There was no evidence to confirm whether the Ad-hoc committee recommendations were acted upon before variation of contract was approved
 - iv. Correspondences between the donor and the County government dated 12 April, 2024 indicated that the project completion was at 95% while the monitoring and evaluation report before variation of contract was initiated indicated contrary 90% completion.
 - v. The project was not complete at the time of the audit in November, 2024
- In the circumstances, propriety of the contract could not be confirmed.

Management Response

The valuation reports and respective payment certificates for the initial contract sums have been provided.

The contract variation was initiated by the project management team, approved through the site meeting and forwarded to the accounting officer on 10/04/2023. The figures at the substructure level are all provisional up to and including the slap. The ground terrain was rugged with loose soil which led to extensive excavations.

The discrepancies in the percentages from the two reports was erroneous and the same has been corrected accordingly. The project is complete and is now fully operationalized.

Committee Observations

The Committee observed that whereas the evidence showing that the project was completed was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)€ of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Lack of Internal Audit Function

As previously reported, review of internal controls at the Municipality revealed that the Municipality did not have an internal audit function to carry out internal audits' contrary to Regulation 155(2)(a) of the Public Finance Management (County Governments) Regulations, 2015 which states an Accounting Officer shall ensure that the organizational structure of the internal audit unit facilitates the entity to accomplish its internal audit responsibilities.

In addition, although the County Executive has an audit committee, evidence of the committee meeting regularly to discuss audit reports, reviewing the governance mechanism of the institution and mechanisms for transparency and accountability with regard to finances and assets of the institution were not provided for audit review.

In the circumstances, the oversight function over the Municipality operations is not effective.

Management Response

The Internal Audit Department of the County Executive has since audited the Municipality. The County has seconded an officer who performs the duties of an internal auditor.

Committee Observations

The Committee observed that the Municipality operated without an Internal Audit Function during the financial year under review.

Committee Recommendations

The Committee recommends that the County Executive Committee Member (CECM) – Finance ensures that the Municipality puts in place all internal control systems such as the Internal Audit Function as provided under section 155 (5) of the Public Finance Management Act, 2012 among others to guide the internal operations of the Municipality. Further, the County Executive Committee Member (CECM) – Finance to submit evidence of the same to the Auditor General for verification.

2. Lack of Occupational Safety and Health Policy

As previously reported, review of the Municipality's occupational risk management and disaster preparedness revealed that the Management did not prepare and approve an occupational safety and health policy and does not have an occupational safety Act, 2007 which states that every occupier shall establish an occupational health and safety committee in the workplace.

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

Management Response

The Municipality has an approved Occupational Safety and Health Policy (OSHP).

Committee Observations

The Committee observed that the Municipality has an approved Occupational Safety and Health Policy (OSHP).

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the matter be marked as resolved.

3. Lack of Risk Management Policy

As previously reported, review of the institution's internal controls revealed that the Municipality lacks an approved risk management policy. The institution does not have a framework for risk identification and management contrary to 158(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounting officer shall ensure that; (a) the

County Government entity develops risk management strategies, which include fraud prevention mechanism; and (b) the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the absence of risk management policy, it is not possible to define the entity's risk appetite and set risk tolerance levels by identifying boundaries against unacceptable exposure to risk.

Management Response

The Municipality has an approved Risk Management Policy.

Committee Observations

The Committee observed that the Municipality has an approved Risk Management Policy.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

4. Lack of IT Internal Controls

As previously reported, review of the Information and Communication Technology (ICT) set up of the Municipality revealed that although the Municipality uses the Nandi County Integrated Finance Management and Information Systems and Integrated Personnel and Payroll System to Manage its receipts and payments and payroll respectively, it does have in place an ICT Policy and IT Strategic Plan which stipulates policies such as Data Recovery Plan (DRP), IT Security and IT Steering Committee which are vital in effective and efficient management of the entity's IT resources. The Steering committee is important in performing the oversight function and formulation of policies to ensure that IT department functions properly to assist in achieving the organization's objectives in an economic, efficient and effective way.

Further, our review of composition of the ICT department revealed that it has only three (3) qualified personnel who were of the same level of principal ICT officers and have no defined roles and responsibilities on how to oversee the IT operations, thus negating the principle of segregation of duties.

In the circumstances, the Institution risks operating in an environment where external compromises are eminent and can jeopardize the organizations data.

Management Response

The Municipality has an approved ICT Policy and IT Strategic Plan. The Municipality Board has an ICT committee which oversees the IT operations especially on automation and data security.

Committee Observations

The Committee observed that the Municipality has an approved ICT Policy.

Committee Recommendations

The Committee recommends that the matter be marked as resolved.

CHAPTER SIX

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF KILIFI FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kilifi County, Hon. Gideon Maitha Mung'aro, OGW, appeared before the Committee on Monday, 10th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Kilifi for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

- | | | |
|------------------------|---|-----------------------------------|
| 1. Mr. Hezekiah Mwarua | - | Chief Officer- Finance |
| 2. Ms. Carolyn Kamitho | - | Kilifi Municipality Manager |
| 3. Ms. Vivienne Nzai | - | Administrator Kilifi Municipality |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Municipality of Kilifi for the financial year on the following basis—

1. Inaccurate Expenditure on Staff Costs

The statement of financial performance and Note 10 to the financial statements reflects expenditure on staff costs totaling Kshs. 50,883,842. However, review of payroll reflects payments on salaries and wages totaling Kshs. 58,781,416 resulting to unexplained variance of Kshs. 7, 897, 574.

In the circumstances, the accuracy and completeness of expenditure totaling Kshs. 50,883, 842 in respect of staff costs could not be confirmed.

Management Response

The management was in agreement with the Auditor General's observations.

The variance of the staff cost was as a result of the non-payment of June, 2024 salaries, wages, and statutory deductions totaling the sum of Kshs. 7, 897, 574/= which was not paid as at the 30th day of June, 2024.

However, outstanding salaries and wages for June, 2024 and some statutory deductions all totaling to Ksh. 4, 826, 460/= was paid on the 11th day of July 2024 and the sum of Kshs. 345, 800/= was paid on the 7th day of November 2024 bring the total payments to the sum of Kshs. 5, 172, 260/=

The outstanding balance of Kshs. 2,725, 287/= will be cleared with provisions of the next Cash Request in the current Financial Year.

PAYEE	DESCRIPTION	AMOUNT	STATUS
COMMISSIONER OF DOMESTIC ITAX	MOK casual deductions for Affordable Housing Levy for the month of March 2024	157, 214/=	-
COMMISSIONER OF DOMESTIC ITAX	N.I.T.A deductions for casual staff for the month of March 2024	13, 700/=	-
COMMISSIONER OF DOMESTIC ITAX	MOK casual deductions for Affordable Housing Levy for the month of April 2024	163, 290/=	-
COMMISSIONER OF DOMESTIC ITAX	N.I.T.A deductions for casual staff for the month of April 2024	14, 150/=	
COMMISSIONER OF DOMESTIC ITAX	MOK P.A.YE casual deductions for the month of April	368/=	-
COMMISSIONER OF DOMESTIC ITAX	N.I.T.A deductions for casual staff for the month of May 2024	14, 600/=	-
COMMISSIONER OF DOMESTIC ITAX	MOK casual deductions for Affordable Housing Levy for the month of May 2024	166, 385/=	-
COMMISSIONER OF DOMESTIC ITAX	N.I.T.A deductions for casual staff for the month of June 2024	14, 250/=	-
COMMISSIONER OF DOMESTIC ITAX	MOK casual deductions for Affordable Housing Levy for the month of June 2024	162, 690/=	-
NSSF	Apr-24	648, 430/=	-

NSSF	May-24	663, 090/=	-
NSSF	Jun-24	648, 336/=	-
NHIF	May-24	175, 600/=	Paid on the 7th day of November 2024.
NHIF	Jun-24	170, 200/=	Paid on the 7th day of November 2024.
Staff Welfare	Feb-24	3, 400/=	-
Staff Welfare	Mar-24	6, 400/=	-
Staff Welfare	Apr-24	7, 800/=	-
Staff Welfare	May-24	21, 610/=	-
Staff Welfare	Jun-24	19, 600/=	-
Imarika Sacco	Net salary for the month of June 2024	2, 945, 170/=	Paid on the 11th day of July 2024.
KCB	Net salary for the month of June 2024	1,881,290/=	Paid on the 11th day of July 2024.
		7,897,574/=	

Committee Observations

The Committee observed that—

- i. the variance of Kshs.7,897,574 were salaries, wages, and statutory deductions which had not been paid as at the 30th June, 2024 and were not recorded as payables in the financial statements.
- ii. a total of Kshs. 5,172,260 had been paid as at the time of the Committee meeting.

Committee Recommendations

The Committee recommends that—

- i. The Auditor-General to provide a status update on the clearance of the outstanding payables during the subsequent audit cycle;
- ii. the Accounting Officer to ensure that a prior year adjustment is made to recognize the unpaid salaries and statutory deductions as payables in the financial statements of the subsequent financial year in order to accurately reflect the company's financial position. The Auditor-General to provide a status update on the same to the Senate during the subsequent audit cycle;
- iii. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iv. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply; and
- v. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.

2. Unsupported Property, Plant and Equipment Balance

The statement of financial position reflects property, plant and equipment balance of Kshs. 262,360,923 as disclosed in Note 16 to the financial statements. However, the balance includes additions for the year totaling Kshs.57,552,650 which was not supported by a detailed schedule of the assets acquired.

In the circumstances, the accuracy and completeness of the property, plant and equipment balance of Kshs.262, 360, 923 could not be confirmed.

Management Response

The property, plant and equipment addition balance for the year was fully supported by the payment schedules to the Financial Statements of the financial year under review.

Committee Observations

The Committee observed that whereas the schedule of the assets acquired was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

3. Unsupported Restatement of Accumulated Surplus Opening Balance

The statement of financial position reflects restated accumulated opening balance of Kshs. 105,131,886 which was restated by Kshs. 14, 721, 569 from the audited opening balance of Kshs. 90, 410, 317. Management attributes the restatement to correction of accumulated surplus from the statement of changes in net assets. However, the restatement has not been supported.

In the circumstances, the accuracy and completeness of the restated accumulated opening balance of Kshs.105, 131, 886 could not be confirmed.

Management Response

The management was in agreement with the Auditor General's observations.

The audited accumulated opening balance of Kshs. 90, 410, 317/= had been erroneously posted in the statement of financial position for the year ending the 30th day of June, 2023. The restatement was done to correct the accumulated opening balance to Kshs. 105, 131, 886/= which is reflected in the Statement of Changes in Net Assets for the year ended 30th June, 2024, which statement was duly submitted to the Auditor General on the 13th day of December, 2024.

Committee Observations

The Committee observed that whereas the statement of changes in assets to support the restatement of Kshs. 14,721,569 was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

4. Long Outstanding Receivables Balance

The statement of financial position reflects receivables balance from County Executive of Kshs. 38, 692, 172 while the corresponding Note 15 to the financial statements reflect Kshs. 38,792,172 resulting to unreconciled variance of Kshs. 100, 000. As previously reported, included in the balance is an opening balance of Kshs.6,633,769 in respect of receivables from the County Executive which has been carried forward since the financial year 2020/2021. Review of records and information provided for audit revealed that this was a balance that was receivable from the County Executive to be paid to third parties. In addition, review of the County Executive's pending bills records revealed that this balance had not been included.

In the circumstances, the accuracy, validity and recoverability of the receivables balance from the County Executive of Kshs.38, 692, 172 could not be confirmed.

Management Response

The receivables from the County Executive are Kshs. 38,692,172. This is correctly reflected in the Statement of Financial Position as well as Note 15 to the Financial Statement for the financial year under review, which statement was duly submitted to the Auditor-General on the 13th day of December, 2024.

The Municipality received the Receivable from the County Executive at the beginning on the 10th and 11th days of July, 2024 hence the Receivable was recovered.

Committee Observations

The Committee observed that—

- i. The variance of Kshs. 100,000 was an error which was corrected.
- ii. whereas evidence of receipt of receivables amounting to Kshs.38,692,172 from the County Executive was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under

the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements; and
- ii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.
- iii. the Municipality undertakes debtor's circularization to confirm the authenticity of the receivables and provide a status update on the same to the Senate within sixty (60) days of the adoption of this report.

5. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.212, 908, 212 and Kshs.205, 773, 334 respectively resulting to an under-funding of Kshs.7, 134, 878 or 3% of the budget. Similarly, the entity spent an amount of Kshs.192, 417, 752 against actual receipts of Ksh.205, 773, 334 resulting to an under-utilization of Kshs.13, 355, 582 or 6.5%.

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

Management Response

The management was in agreement with the Auditor General's observations.

The under-funding of Kshs.7, 134, 878/= or 3% of the budget is as a result of the Municipality of Kilifi not receiving full funds from the County Executive as per the Budgetary Allocation at the close of the Financial Year.

The under-utilization of Kshs.13, 355, 582/= was attributed to delay in the disbursement from the County Executive during the financial year under review.

The management appreciated the Auditor General's assessment and will endeavor to strengthen our budget performance to enhance service delivery.

Committee Observations

The Committee observed that—

- i. The municipality had an under-funding of Kshs.7,134,878 or 3% of the budget during the financial year under review.
- ii. The municipality failed to absorb Kshs.13,355, 582 or 6.5% of its budget during the financial year under review due to delay in the disbursement from the County Executive.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

6. Unresolved Prior Year Audit Matters

Various prior year audit issues remained unresolved as at 30 June, 2024. Management has indicated that the issues were discussed at the County Assembly but the report has not yet been published.

Management Response

The management remains committed to resolving these matters and ensuring compliance with audit recommendations and the Management has taken action to resolve the pending issues.

Matter	Management's Action
Inaccuracies in the Financial Statements	The inaccuracies have been corrected as a prior year adjustment in the financial statements for the year ending the 30 th day of June 2024.
Budgetary Control and Performance	The County Executive has initiated the process of transferring some revenue streams to the Municipality to address the underfunding and under expenditure.
Unsupported Staff Recruitment	The recruitment of the six (6) cleaning supervisors was done by the County Public Service Board. Currently the Municipality of Kilifi has eight (8) substantive positions filled and twelve (12) other members of staff deployed.
Weakness in Governance and Operational Environment	The County Executive has transferred all the 17 functions as per the Municipality of Kilifi Charter.

Committee Observations

The Committee observed that the municipality had unresolved prior year matters demonstrating management lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Irregular Expenditure on Repair and Maintenance of Motor Vehicles

The statement of financial performance and Note 13 to the financial statements reflects payments on repairs and maintenance totaling Kshs.12,463,560. Included in the amount is Kshs.3, 847, 021 in respect of payments on repair and maintenance of motor vehicles. Management explained that they were using framework agreement of the County Executive to engage the service providers. However, the framework agreement was not provided. Further, review of supporting documents revealed that there was no fair rotation among suppliers since payment amounting to Kshs.1,927,273 or 50% of the total expenditure on repair and maintenance of motor vehicles was awarded to one contractor. This is contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires 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, Management was in breach of the law.

Management Response

The management was in agreement with the Auditor General's observations.

It is important to note that the Contract awarded to the particular service provider was executed under a Framework Agreement on the 13th day of February, 2023, which is permissible under Section 114 of the Public Procurement and Asset Disposal Act, 2015. This framework arrangement was deemed necessary due to the nature of the services involved. The specific motor vehicle in question is critical for garbage collection operations, and engaging a single service provider with an in-depth understanding of the mechanical history of the vehicle was considered prudent. This decision was taken to ensure consistency in maintenance, minimize downtime, and maintain operational efficiency.

Furthermore, the Public Finance Management Act, 2012 emphasizes the need for prudent management of public resources. Opting for a framework agreement with a single service provider for this specific vehicle aligns with the principle of cost-effectiveness and efficiency, as stipulated in Section 197 of the Public Finance Management Act, 2012.

While the intention was to ensure optimal service delivery and operational continuity, the entity acknowledges the importance of adhering to the requirements of fair and equitable rotation as outlined in the procurement regulations.

Committee Observations

The Committee observed that—

- i. The management failed to provide the framework agreement used during the procurement of repair and maintenance services of motor vehicles amounting to Kshs. 3,847,021; and
- ii. 50% of motor vehicle repair and maintenance expenses (Kshs. 1,927,273) were awarded to a single contractor, in contravention of regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020, which requires fair and equitable supplier rotation.

Committee Recommendations

The Committee recommends that—

- i. **Within sixty (60) days of the adoption of this report, the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**
- ii. **the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their**

- investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle; and
- iii. the Accounting Officer to ensure strict compliance with the provisions of regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 with regards to fair and equitable supplier rotation failure to which the provisions of section 177 of the Public Procurement and Asset Disposal Act, Cap.412C on penalties for offences shall apply.

2. Irregular Engagement of Casuals

The statement of financial performance and Note 10 to the financial statement reflects staff costs totaling Kshs. 50,883,842. Review of casual staff data revealed that Management engaged a total of two hundred and nine (209) casuals for more than three (3) months without a contract with some casuals being engaged since 2019. This is contrary to Section 37 (1) of Employment Act, 2007 which states that notwithstanding any provisions of this Act, where a casual employee works for a period or a number of 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 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 and Section 35 shall apply to that contract of service.

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

Management Response

The management was in agreement with the Auditor-General's observations.

The Kilifi County Public Service Board has undertaken the task of regularizing the employment of current casual workers by offering them Term Contracts as provided for in Section 75 of County Government Act.

This process has already been completed for the casual workers in the Executive Departments, who have undergone vetting and have been issued Term Contracts. Similarly, the casual workers in the Municipality have been vetted and are awaiting the signing of their contracts.

Committee Observations

The Committee observed that the management of the municipality engaged a total of two hundred and nine (209) casuals for more than three (3) months without a contract contrary to section 37 (1) of Employment Act, 2007. However, the Kilifi County Public Service Board later issued contracts to the workers to mitigate the matter.

Committee Recommendations

The Committee recommends that the Board of Directors and the Managing Director ensure that the Municipality complies with the provisions of section 37 (1) of Employment Act, Cap.226 failure to which section 87 of the Employment Act on penalties for offences shall apply.

3. Non-Remittance of Tax Deducted from Board Allowances

The statement of financial performance and Note 11 to the financial statements reflects board expenses totaling Kshs. 4,010,332. However, review of records revealed that taxes totaling Kshs.396,362 which were deducted from board members' allowances were not remitted to Kenya Revenue Authority. This is contrary to Section 35(5) of the Income Tax Act 2012, Cap 470 which states that where a person deducts tax under this section he shall, on or before the twentieth day of the month following the month in which the deduction was made, remit the amount so deducted to the Commissioner together with a return in writing of the amount of the payment, the amount of tax deducted, and such other information as the Commissioner may specify.

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

Management Response

The management was in agreement with the Auditor General's observations.

The non-remittance of tax deducted from the Board Member allowances was mainly caused by delayed disbursement of funds to the Municipality of Kilifi. This made it difficult for the Municipality to make the monthly remittances.

The Municipality of Kilifi made the payment of the sum of Kshs. 424,108/= (inclusive of the sum of Kshs. 396,362/=) to the Kenya Revenue Authority on the 11th day of December 2024.

Committee Observations

The Committee observed that the Municipality mitigated the query by remitting the taxes amounting to Kshs.396,362 to the Kenya Revenue Authority (KRA).

Committee Recommendations

Noting the mitigation measures, the Committee recommends that the query be marked as resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Failure to Act on Internal Audit Reports

Review of internal audit reports, audit committee minutes and Board minutes revealed that the board held four (4) sittings and discussed internal and external audit reports and various recommendations were made. However, there were no responses and action plans from accounting officer to prove that recommendations had been implemented. In the circumstances, internal controls, risk management and governance were not effective.

Management Response

The management was in agreement with the Auditor General's observations. The Management has noted the observation made by the Auditor-General and will endeavor to rectify our position. Implementation of the recommendations as per the action plan is ongoing.

Committee Observations

The Committee observed that the management submitted an action plan for the implementation of the Board's recommendations.

Committee Recommendations

The Committee recommends that the Auditor-General provide a status update on the implementation of the recommendations during the subsequent audit cycle.

CHAPTER SEVEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF KISII FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kisii County, Hon. Paul Simba Arati, appeared before the Committee on Friday, 21st March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Kisii for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

- | | |
|------------------------|--------------|
| 1. Ronald Nyakweba | -CECM-Health |
| 2. Elizabeth Nyamokami | -Accountant |
| 3. Kevin Mazeyo | -Accountant |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Municipality of Kisii for the financial year on the following basis—

1. Unconfirmed Revenue and Staff Costs Amounts

The statement of financial performance reflects transfers from the County Government amount of Kshs 229,294,901, while the supporting Note 6 to the financial statements indicates a corresponding amount of Kshs.212,210,573 resulting in an unreconciled variance of Kshs 17,084,328.

Similarly, the statement of financial performance reflects an amount of Kshs.205,011,946 in respect of staff costs. However, the supporting note 8 to the financial statement shows staff costs amounting to Kshs 187,927,618 resulting in a variance of Kshs 17,084,328 which was not reconciled.

Further, Management did not provide for audit approved staff establishment, letter(s) from the County Public Service Board indicating the Officers mandated to serve in the Municipality payroll for the year under review in support of the staff costs amounts of Kshs.187,927,618.

In the circumstances, the accuracy and completeness of the reported amounts for transfers from the County Government and staff costs could not be confirmed.

Management Response

The unreconciled variance of Kshs 17,084,328 was as a result of error of Omission of transfer of the salary for the Month of September 2023 which was not included in note 6 to the financial statements. Similarly, the variance of 17,084,328 was also an omission of the staff costs for the month of September 2023 which was not included in Note 8.

The management is in the process of developing municipality staff establishment. So far staff establishment a draft report for officers working in the Kisii Municipality has been developed. The management is also on the process of issuing letters to the officers working in the municipality.

Committee Observations

The Committee observed that—

- i. the two variances of Kshs 17,084,328 in the financial statements were due to errors of omission which are yet to be corrected; and
- ii. the management failed to provide an approved staff establishment and appointment letters from the County Public Service Board indicating the Officers mandated to serve in the Municipality for audit review.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;
- iv. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping in line with section 155 of the Public Finance Management Act, Cap.412A and submit a quarterly report to the County Treasury and the Controller of Budget in accordance with section 168(3) of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply; and
- v. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting

- Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements;**
- vi. the Accounting Officer ensures that a prior year adjustment is carried out in the financial statements of the subsequent year to correct the errors and reflect the true financial position. The Auditor-General to provide a status update on the same to the Senate in the subsequent audit cycle; and**
 - vii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.**

2. Unsupported Board Expenses

The statement of financial performance reflects an amount of Kshs.762,000 in respect of Board expenses. However, Management has provided supporting documents for Kshs.273,000, leaving an amount of Kshs.453,000 unsupported. Further, the Gazette Notice for the board members was not provided for audit review.

In the circumstances, the accuracy, completeness and regularity of the Board expense of Kshs.762,000 could not be confirmed.

Management Response

The management took note of the auditor's observation on unsupported board expenditure which was inadvertently not availed during the time of audit process. However, this has since been provided for verification. Also, the management has availed the Gazette notice for municipal board members.

Committee Observations

The Committee observed that—

- i. whereas the payment vouchers in support of board expenses amounting to Kshs.453,000 were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act; and
- ii. the management failed to provide the Gazette Notice for the board members for audit verification.

Committee Recommendations

The Committee recommends that—

- i. noting that there was no evidence that showed the appointment and gazettment of Board Members to warrant the board expenses, the Committee recommends that the Accounting Officer for the Municipality recovers the amount of Kshs. 453,000 used for board expenses within sixty (60) days of the adoption of this report and provides a status update within the same period.
- ii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

Emphasis of Matter

1. Budgetary Control and Performance

The statement of Comparison of budget and actual amounts shows budget and actual amounts shows that the Municipality had a revenue budget of kshs.144, 534,906 and realized actual revenue of kshs.229, 294,901, resulting in excess revenue of Kshs.84, 759,995, or 59% of the budget. Similarly, the Municipality spent Kshs.229, 807,006 out of the budget amount of Kshs.144, 534,906, resulting in an over-expenditure of Kshs.85, 272, 100, or 99% of the budget.

In addition, the statement reflects a capital expenditure budget of Kshs.127,827,294 and actual on comparable basis amount of Kshs.16,786,235 resulting in an under expenditure of Kshs.111,040,059 or 87% of the budget.

Further, review of the supplementary budget revealed projects with total budgetary allocation of Kshs, 42, 700,952, listed below, that had not been implemented:

S/No	Unimplemented Projects	Amount (Kshs.)
1	Construction of toilets at People's Park	1,292,146
2	Civil works at Bus park Stage	6,000,000
3	Purchase of Waste Tipping Trailer	650,000
4	Fencing around Kisii Municipality Offices at Fire Station	7,000,000
5	Nyanchwa Link Road street lighting	4,968,806
6	Prison-Deliverence Jogoo road	1,615,000
7	SokoMjingaNyaura SDA Road	855,000
8	Gekomu ,SDA-Menyinkwa Road	4,688,000
9	Equator-Kisii eye-club seal	2,907,000

10	Nairobi women-Darajambili secondary	2,508,000
11	St. Mark-Kisii Bottlers	2,717,000
12	Tree planting from Kisii hotel-hudumacentre	2,000,000
13	Civil works for lower side of Kisii main bus park	4,000,000
14	Construction of Ogembo street toilet	1,500,000
	Total	42,700,952

The excess revenue realized is an indicator of poor budgeting process, the authorization of the over expenditure of kshs.85,272,100 could not be confirmed, while the underfunding of capital expenditure affected planned development activities and may have negatively impacted service delivery to the public.

Management Response

The excess revenue of Kshs.84,759,995 was caused by under budgeting during budget making process. Similarly, over expenditure of Kshs, 85,272,100 were occasioned by under budgeting of staff costs during the budget making process. However, Municipality functions have since been transferred as envisaged in the Urban and Cities Act, 2011 as per gazette notice dated 26th July, 2024. The Board has gone further and established a new Municipal Organogram that has gone through Cabinet awaiting implementation by the County Public Service Board to align itself with the transferred functions and transfer of funds to increase the ceiling for commitment in the forward budget.

The under expenditure of 111,040,000 was as result of procurement challenges as most of the contractors did not honor their obligation.

Further, for all the unimplemented projects amounting to Kshs 42,700,952, no work had commenced and therefore no payments were made. These contracts were therefore terminated.

S/No	Unimplemented Projects	Amount (Kshs.)	Remarks
1	Construction of toilets at People's Park	1,292,146	The project was awarded to a contractor but did not honor the contract hence terminated.
2	Civil works at Bus park Stage	6,000,000	The tender was advertised but no successful bidders for the tender.
3	Purchase of Waste Tipping Trailer	650,000	The tender was advertised but there was no response

4	Fencing around Kisii Municipality Offices at Fire Station	7,000,000	The tender was advertised but there were no successful bidders as they could not meet the requirements.
5	Nyanchwa Link Road street lighting	4,968,806	The project was terminated as the contractor did not start the works within the 3 months allowance.
6	Prison-Deliverance Jogoo road	1,615,000	The project was terminated as the contractor did not start the work within 3 months after the contract award.
7	Soko Mjinga Nyaura SDA Road	855,000	The project was awarded. However, the contractor did not honor the tender.
8	Gekomu, SDA-Menyinkwa Road	4,688,000	The project was terminated as the contractor did not start the work within 3 months after the contract award.
9	Equator-Kisii eye-club seal	2,907,000	The project was terminated as the contractor did not start the work within 3 months after the contract award.
10	Nairobi women-Daraja mbili secondary	2,508,000	The project was terminated as the contractor did not start the work within 3 months after the contract award.
11	St.Mark-Kisii Bottlers	2,717,000	The project was terminated as the contractor did not start the work within 3 months after the contract award.
12	Tree planting from Kisii hotel-huduma centre	2,000,000	Quotations were sent out but there was no response.
13	Civil works for lower side of Kisii main bus park	4,000,000	The contract was awarded but the work has not commenced.
14	Construction of Ogembo street toilet	1,500,000	The project was terminated as the contractor did not start the work within 3 months after the contract award.
	Total	42,700,952	

Committee Observations

The Committee observed that—

- i. the Municipality had a revenue surplus of Kshs.84,759,995, or 59% of the budget during the financial year under review;
- ii. the Municipality had an over-expenditure of Kshs.85,272,100, or 99% of the budget during the financial year under review; and
- iii. all the projects with a total budgetary allocation of Kshs, 42,700,952 were terminated as no work had commenced and no payment was made.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

2. Unresolved Prior Year Audit Matters

In the audit report for the 2022/2023 financial year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in use of Public Resources Sections. However, Management has not resolved the issues or given satisfactory explanation for failure to resolve them.

Management Response

The management has responded to the issues raised in the financial year 2023/2024 as per invitation to this honourable committee.

Committee Observations

The Committee observed that the municipality had unresolved prior year matters demonstrating management lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**

- ii. **the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Unjustified payments of Consultancy Fees – Kshs 3,200,000

The statement of financial position reflects property, plant and equipment balance of Kshs.380,306,065 which, as disclosed in note 14 to the financial statement, includes infrastructural assets balance of Kshs.313,925,844 which further includes additions during the year under review amounting to Kshs 16,786,235. Included in the later amount is Kshs 1,700,000 paid to a consultant for the provision of consultancy audit for the construction to bitumen standards of Nyanchwa Link road in Kisii Town. However, the payment and the environmental audit report were made on 25th July, 2023 and 25th May 2023 respectively after issuance of certificate of substantial completion by Kisii Municipality on 21 December, 2021. According to the certificate, Kisii Municipality had certified all works and payments totaling Kshs. 111,521,518 and, therefore, there was no rationale for payment for provision of consultancy audit.

Further, Kisii Municipality also paid Kshs. 1,500,000 to another consultant on 31 July, 2023 for the provision of consultancy services for environmental audit for the augmentation of huduma center-Kisii Hotel drainage within Kisii Town. The project equally had been completed and a certificate of substantial completion issued on 17 October 2022.

Management Response

The environmental audits for the projects were carried out as an obligation to World Bank standards under the Kenya Urban Support Program I where during one of the assessments it came up as an item of urgency since KUSP I was coming to an end.

The Environmental and Social Impact Assessments that were carried out before the commencement of the projects forms basis for the Environmental Audit where after the project is complete audits should be done to check on implementation of the management and monitoring plan post project completion. This was also in line with Legal notice No.101 of The Environmental (Impact Assessment and Audit) Regulation, 2003.

Committee Observations

The Committee observed that the management clarified that the consultancy fees of Kshs 1,700,000 and Kshs. 1,500,000 paid after completion of the projects were for the post-project audit which was a requirement of the World Bank standards under the Kenya Urban Support Program I.

Committee Recommendations

The Committee recommends that the Governor, through the County Executive Committee Member (CECM) – Finance, ensures the consultancy fees amounting to of Kshs 1,700,000 and Kshs. 1,500,000 are recovered from the Accounting Officer and provides evidence of action taken within sixty (60) days of the adoption of this report. Failure to take action, the Governor and the CECM-Finance shall be held liable for the same.

2. Anomalies in the upgrading of Jogoo-KARI-KIHBIT Road to Bitumen Standards

The statement of financial position reflects, property, plants and equipment balance of Kshs 380,306,065 which, as disclosed in Note 14 to the financial statement, includes infrastructural assets balance of Kshs.313,925,844 which further includes additions during the year under review amounting to Kshs. 16,786,235. Included in the later amount is Kshs. 16,720,155 spent in respect of a contract awarded for the upgrading of Jogoo-KARI-KIHBIT Road to bitumen standards at a contract sum of Kshs.49,459,667. Review of the expenditure records for the contract revealed that the contractor had been paid a total of Kshs.34,403,292 including the First (1st) Moiety of retention money of practical completion of Kshs. 3,133,918. However, the following anomalies were noted;

- i. The bill of quantities (B.O.Q) for works was not provided for audit amount to only Kshs.8,437,000.
- ii. The payment of retention money of Kshs 3,133,918 dated 27 March, 2024 was also done before the completion of the road works, also the contractor had terminated the contract.
- iii. Review of procurement records and physical inspection of the road works on 1 November, 2024 revealed that Kisii Municipality entered into another contract with a Company at a contract sum of Kshs. 23,500,109, resulting in cost escalation against the original road works contract of Kshs.49, 459,667 by Kshs.8, 443,733. The contractor is on site to complete the unfinished road works.

In the circumstances, value for money of the additional cost of 16,720,155 could not be confirmed.

Management Response

- i. The management took note of auditors that the bill of quantities for the upgrading of Jogoo-Kari-KIBHT road to bitumen standard was not provided at the time of during the audit process. However, this has since been provided for verification
- ii. The management took note of auditor's observation on payment of retention amounting to Kshs 3,133,918 to the contractor after the contract had been terminated. However, this was based on previous certificates of work done.
- iii. As regards to cost escalation, the original contract scope was to cover for 1st seal and 2nd seal. However, an initial contract was terminated upon completion of the 1st seal. During the lag period sections of the road had worn out especially at Banana-ATC junction and the KIHBIT section, the former was attributed to turning of the waste management truck and the latter to the excavator crawling on the pavement, such resulted to the damage of the of the pavement which necessitated repairs. Additionally, prior to entry of another contractor which was 9 months later, there were preliminary items including mobilization and surface regularization which were necessary for smooth implementation of the project. That was covered in the additional cost.

Committee Observations

The Committee observed that—

- i. whereas the bill of quantities (B.O.Q) was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act;
- ii. the management failed to provide for audit verification, the certificates of work done to support the payment of retention money of Kshs 3,133,918 to the contractors; and
- iii. the management failed to provide evidence to support the justification of the cost escalation of Kshs.8, 443,733 of the project.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

3. Failure to Maintain Retention Account

The statement of financial position reflects payables-deposits and retention balance of Kshs.2, 922,803. Which, as disclosed in Note 15 to the financial statements, relates to retentions. However, the management did not maintain a separate retention account for such monies to cover any defect in construction contracts. This amount may have been used for other purposes, since the cash and cash equivalents balance as at 30th June,2024 was only Kshs.108,155. Therefore, Management violated the provisions of section 149(1) of the Public Finance Management Act, 2012

Management Response

The management concurs with the auditor's observation on opening of the retention account. However, under the Kenya Urban Support Program, the requirement was to open two accounts with the Commercial banks. One for Urban Institutional Grant (UIG) and another one for Urban Development Grant (UDG). The retention money of Kshs 2,922,803 is part of the co-funding that was to be transferred from the exchequer that never materialized.

Committee Observations

The Committee observed that the Municipality did not open a separate retention account for the retention balance of Kshs.2, 922,803 contrary to section 149(1) of the Public Finance Management Act, cap.412.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that the Municipality opens a retention account within thirty (30) days of the adoption of this report in accordance with section 149(1) of the Public Finance Management Act, cap.412.

4. Failure to Operationalize the Kisii Municipality Charter

During the year under review, Kisii Municipality board failed to operationalize the Municipality Charter, thus denying the municipality the opportunity to undertake its functions as stipulated in clause 2.3.1 of the charter. Further, it was established that the Municipality has not been able to;

- i. Keep records and track all exchequer issues for its recurrent and development as budgeted.
- ii. Discharge its revenue collection function to sustain its operations. The revenue collection function was being executed by Kisii County Revenue Department.

- iii. Establish its own staff for effective and efficient management of its operations. In this regard it was noted that there was no approved organogram; approved staff establishment; letters from County service board indicating the officers mandated to serve in the municipality; and staff payroll for the Municipality.

It was further noted that, failure to recruit staff had crippled the operations of the Municipality as crucial policy and procedures documents had not been developed at the time of the audit. They include: Human resource manual; staff career progression guidelines; finance regulation and procedures manual; fraud policy document; ICT policy document; and disaster recovery policy document.

This was contrary to section 20 (1) (b) and (h) of the Urban and cities Act, 2011, which stipulate that subject to the provisions of this Act a board of a City or Municipality shall develop and adopt policies, plans, strategies and programmes and may set targets for delivery of services and administer and regulate its internal affairs.

Management Response

The management concurred with the auditor's observation on the operationalization of the Municipal Charter. However, plans are underway to transfer the functions from the County Government to the Municipality. Plans are underway to transfer all the functions to the Municipality as indicted in the gazette notice.

Committee Observations

The Committee observed that the Board of the Municipality failed to operationalize the Municipality Charter, an indication that the Municipality lacked autonomy.

Committee Recommendations

The Committee recommends that the Governor of Kisii County takes all the necessary steps to ensure the Municipality of Kisii achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, cap.275 and the Auditor General to verify the implementation of this recommendation in the next audit cycle.

CHAPTER EIGHT

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF KINANGO FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kwale County, Hon. Fatuma Mohamed Achani, EGH, appeared before the Committee on Thursday, 20th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Kinango for financial year 2023/2024. She was accompanied by –

- | | |
|----------------------------------|--------------------------|
| 1. Ms. Saumu Beta | - CECM Environment |
| 2. Mr. Alex Onduko | - Chief Officer, Finance |
| 3. Ms. Mwanawami Ramadhani Sheti | -Municipal Manager |
| 4. Ms. Christine Malila | -Accountant |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered an **adverse opinion** on the financial statements of Municipality of Kinango for the period under review on the following basis-

1. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following anomalies –

- i. The transfers from the County Government was amended from Kshs.5,911,317 to Kshs.23,965,705 in the statement of financial performance. However, the amendment of Kshs. 18,054,388 is not supported with schedule and the amount movement could not be traced in the bank statement and cashbook.
- ii. The statement of financial performance reflects use of goods and services amount of Kshs. 16,824,397 while the statement of cashflow reflect Kshs.5,606,046. The resultant variance of Kshs. 11,218,351 is supported with a schedule accounting for Kshs. 11,741,390, resulting to an unexplained variance of Kshs.523,039.
- iii. Work in progress amount of Kshs13,137,655 was erroneously transferred to Assets-Roads as additions for the year, yet the amount was outstanding as at 30 June, 2024.
- iv. The statement of financial performance and Note 16 to the financial statements reflects total depreciation for the year of Kshs.509,713 while recalculated depreciation amount is Kshs. 174,172 resulting in an unexplained variance of Kshs.335,541.
- v. Receivables from non-exchange transactions in the statement of financial position and Note 21 to the financial statements was amended from Kshs.

11,741,390 to Kshs. Nil. However, the amendment is not supported with a journal entry.

- vi. The statement of financial position and Note 24 to the financial statement reflect property, plant and equipment balance of Kshs. 30,682,330 while the statement of changes in net assets indicates capital/development fund received during the year of Kshs. Nil and the statement of cashflow reflects Kshs. 18,054,388 under investing activity on purchase of PPE and intangible assets. The resultant variances between the three sets of financial statements were not explained or reconciled.
- vii. The statement of cashflows reflects receipts from County Government of Kshs.23,965,705 while the statement of comparison of budget and actual amounts reflects actual revenue receipts of Kshs.5,911,317 resulting in an unexplained variance of Kshs. 18,054,388.
- viii. The statement of comparison of budget and actual amounts reflects the performance difference on use of goods and services wrongly casted as Kshs. 11,004,514 instead of Kshs. 11,309,514.
- ix. The statement of comparison of budget and actual amounts reflects original recurrent and development budget amounts of Kshs.20,300,177 and Kshs.33,699,823 while the approved budget reflects the same as Kshs.4,500,000 and Kshs.50,000,000 respectively. The resultant variances of Kshs. 15,800,177 and Kshs. 16,300,177 were not explained or reconciled.

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

Management Response

Management responded as follows –

- i). The amended figure from Kshs. 5,911,317 to Kshs.23,965,705 was as a result of the following:-
 - Kshs. 4,322,334 for Consultancy Services for Urban Development Plan,
 - Kshs. 1,588,983 for office operations,
 - Kshs. 12,602,897 for Purchase of Land For Cemetery and Dumpsite and
 - Kshs. 5,230,388 for Posta-Salvation Army Road. Schedules, Bank Statements and cashbook were provided.
- ii). The variance of Kshs.523,039 between Kshs. 11,218,351 and Kshs. 11,741,390 Relates to Retention money (Deposits) of which a schedule has been provided to this effects.
- iii). The amount of Kshs. 13,137,655 transferred to Assets under roads was so because these roads were done but payment had not been made.

- iv). We acknowledge there was misapplication of the rates on Depreciation charged. The management has noted and corrections of the recalculated figure Kshs.174,172 will be made in the subsequent year FY 2024/2025.
- v). The Receivables from Non-exchange transactions of Kshs.11,741,390 was amended to Nil after we realized that we had made an error hence, we re-submitted the corrected financial statements with Nil Balance.
- vi). The difference between Kshs. 30,682,330 and Kshs 18,054,388 (Kshs.12,627,942.00) added to a Deprecation Kshs 509,713 results to Kshs.13,137,655 which was in Plant, Property and Equipment's, included in the additions of Assets – Roads in respect for Two Roads which were done by the end of the Financial year but payment had not been made hence did not result to cash outflow.
- vii). This has been noted as a miscast which was caused by a figure of Kshs. 305,000 which was in relation to Board allowances.
- viii). The difference in Recurrent of Kshs 15,800,177 was as a result of the consultancy on Kinango Urban Development Plan and commitments on use of good i.e. supplies which had not been paid and unutilized budget as at the end of the Financial year.

The Difference of Kshs.16,300,177 on Development was in relation to the projects done During the Year and had not been paid amounting to Kshs.13,137,655 and an amount of Kshs. 2,507,580 which was reallocated during Supplementary to cover the savings.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons

- i). there were significant financial statement discrepancies such as –
 - unsupported amendments.
 - Inconsistencies in statements.
 - unsupported adjustments.
 - Variances in the budget.
 - Casting errors.

The discrepancies are an indication of capacity challenges in the finance and accounting sections.
- ii). Management failed to undertake the necessary adjustments and reconciliation of the financial statements as well as provision of supporting documents at the time of audit;
- iii). Management made amendments and adjustments to the financial statements beyond the audit timelines, and these changes have yet to be verified by the Auditor-General; and
- iv). The numerous inaccuracies are an indication of weak internal control systems.

Committee Recommendations

The Committee recommends that –

- i). The Accounting Officer should ensure that the inaccuracies observed in the financial statements are adjusted accordingly using the relevant journal entries and reflected as prior year adjustments in the financial statements of the subsequent financial year. Auditor-General to provide a status update on the matter in the subsequent audit cycle;
- ii). The Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records;
- iii). The Accounting Officer should strengthen internal audit controls and ensure proper record keeping;
- iv). The Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and
- v). the Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 534.

3. Unreconciled Charge on Cash Vote

The statement of financial performance reflects total expenses of Kshs. 17,639,110. Review of the IFMIS payment details revealed that payments amounting to Kshs. 1,588,983 were made on the cash vote and not on the line items as budgeted. No explanation was provided for failure to process the transactions through the respective expenditure line items.

In the circumstances, the accuracy and completeness of total expenses of Kshs. 17,639,110 could not be confirmed.

Management Response

Management responded as follows –

The Payment made of Kshs. 1,588,983 on cash vote was money received by the Municipality as Imprest from the County Treasury. The expenditure is however invoiced through the vote lines and processed by cheque.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). management failed to reconciliation between cash vote and the expenditure vote;
- ii). Any expenditure charged to cash vote should be posted to the correct expenditure vote by the end of the financial year and no evidence was provided to show that the same has been done.

Committee Recommendations

The Committee recommends that –

- i). **The Accounting Officer should undertake a reconciliation of the cash vote and the expenditure vote and ensure that the adjustments are reflected as prior year adjustments in the financial statement of the subsequent financial year. The Auditor-General to provide a status update on the matter in the subsequent audit cycle;**
- ii). **The Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records;**
- iii). **The Accounting Officer should strengthen internal audit controls and ensure proper record keeping;**
- iv). **The Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and**
- v). **the Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 534.**

Emphasis of Matter

Under Emphasis of matter, the Auditor-General raise the following issue –

1. Budgetary Control and Performance

The statement of corripairison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.18,807,957 and Kshs.5,911,317 respectively resulting to an under-funding of Kshs. 12,896,640, or 69% of the budget. Similarly, the Municipality expended Kshs. 5,911,046 against an approved budget of Kshs. 16,915,560 resulting to an under-expenditure of Kshs. 11,004,514 of the budget.

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

Management Response

Management responded as follows –

The Budgeted of receipts of Kshs.18,807,957 and an actual receipts of Kshs.5,911,317 resulting to the underfunding of Kshs.12,896,640, of which Kshs.11,218,351 was Pending Commitments for Services rendered during the year under Audit which has since been carried to the Current Financial for onward processing leaving only Kshs.1,678,289 of the budget unutilized, most of the activities during year were done and only limited by late disbursements of funds by the National treasury.

Committee observation

The Committee observed that the query remains unresolved as there was a budgetary under-funding of Kshs. 12,896,640, or 69% of the budget and an under-expenditure of Kshs. 11,004,514 of the budget. This was linked to delays in disbursement of funds by the National Treasury.

Committee Recommendations

The Committee recommends that –

- i). The Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures; and
- ii). The National treasury should ensure timely disbursement of funds to counties in accordance with the disbursement schedule passed by the Senate.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Unapproved Bank Account

The statement of financial position and Note 19 to the financial statements reflects cash and cash equivalents balance of Kshs.271 held in a commercial bank account. However, the authority to open and operate the account and appointment of the designated signatories from the CECM of Finance was not provided for audit review. This was contrary to Section 119(1) of Public Finance Management Act, 2012, providing that the County Treasury is responsible for authorizing the opening, operating and closing of bank accounts for County Government and its entities except as otherwise provided by other legislation and in accordance with regulations made under this Act.

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

Management Response

Management responded as follows –

The Commercial Bank Account was properly approved and opened with authorization from the County Treasury by the CECM Finance. With reference letter Vide Number C.G/KWL/3/16.VOLIV/(47) Dated 13th September 2023 and Change of signatories Vide Letter Reference C.G/KWL/3/16.VOL16IV(38). Dated 31st October 2023 and Accounting officer Reference number C.KWL/3.ACCTS./(14). Letters to that effect were provided for scrutiny.

Committee Observations

The Committee observed that whereas documents to support the regularity for opening the bank account were provided and verified by the Auditor-General and the query marked as resolved, the submission was done outside the timelines contemplated under the Public Audit Act and Constitute an offense under section 62(2) of the Public Audit Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in accordance with section 9(1) of the Public Audit Act Cap. 412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act.

2. Land in the Name of County Government of Kwale

The statement of financial position and Note 24 to the financial statements reflects property, plant and equipment balance of Kshs.30,682,330 which includes two pieces of land of approximated area of 3.22 Ha. And 4.8 Ha. Acquired during the year at costs of Kshs.4,424,000 and Kshs.8,400,000 for dumpsite and cemetery respectively. However, the parcels of land are registered in the name of the County Government of Kwale and not the Municipality Board. This is contrary to Section 12(2) of Urban Areas and Cities Act, 2011 and Section 6(2)(b) of the Municipality Charter that states that the board of the Municipality shall be a corporate body with a perpetual succession and a common seal and shall in its own corporate name be capable of (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property.

Management Response

Management responded as follows –

The Municipality Purchased two parcels of land for Dumpsite and Cemetery respectively. The Municipality has no KRA PIN and these parcels could not therefore be registered under the Municipality Name. The Municipality is in the process of acquiring the KRA Pin and thereafter transferring the parcels of land from County Government of Kwale to Kinango Municipality.

Committee Observation

The Committee observed that the query remains unresolved as the parcels of land are registered in the name of the County Government of Kwale and not the Municipality Board since the Municipality did not have a KRA Pin.

Committee Recommendation

The Committee recommends that the Governor should ensure that within 90 days of the adoption of this report, the Municipality has a KRA Pin and the two parcels of land are transferred in favor of the Municipality and provide copies of Title Deeds to Auditor-General for verification. Auditor-General to provide a status update on the matter in the subsequent cycle.

3. Unsupported Procurement of Property Plant and Equipment

The statement of financial position and Note 24 to the financial statements reflects property, plant and equipment balance of Kshs.30,682,330 which includes grading and murrming of Posta-Salvation Army Road at a contract sum of Kshs.5,230,388. However, the tender documents for the three bidders and site meeting minutes to confirm the project status and handing over to the Municipality were not provided for audit review.

In the circumstances, the regularity of the procurement of the road costing Kshs.5,230,388 could not be confirmed.

Management Response

Management responded as follows –

The Site Meeting and the handover reports Minutes have since been provided as they were in the Project File and not the Payment file and the three bids provided too.

Committee Observation

The Committee observed that the query remains unresolved as the supporting documents provided were for site handover and not handing over the complete project.

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records;
- ii). The Accounting Officer should ensure timely submission of documents during the audit process in accordance with section 9(1)(e) of the Public Audit Act; and
- iii). The Director of Public Prosecutions commences investigations into the reasons behind failure by the Accounting Officer to provide procurement related documents to the Auditor-General during the audit process and provide a status report within 60 days of the adoption of this report.

4. Unaccounted Consultancy Services

The statement of financial performance and Note 12 to the financial statements reflect use of goods and services amounting to Kshs 16,824,397. Management entered into a contract with a consultant for consultancy services for preparation of an Integrated Urban Development Plan for Kinango Municipality and paid Kshs. 4,322,334 during the financial year. Review of the payment and procurement documents revealed the deliverable reports submitted were not signed by the consultant to own the work and there was no Inspection and acceptance report on the deliverables before payment was made.

In the circumstances, the value for money on consultancy services of Kshs 4,322,334 could not be confirmed.

Management Response

Management responded as follows –

The signed report has been provided for verification. The Inspection and Acceptance Report was informed of a Report provided by the director of Physical Planning as the Supervisors of the Consultant.

Committee Observation

The Committee observed that the query remains unresolved as the report used to support payment was not signed by the consultant. However, the inspection and acceptance report was provided and verified by the Auditor, albeit outside the audit timelines contemplated under the Public Act.

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should ensure timely submission of documents during the audit process in accordance with section 9(1)(e) of the Public Audit Act; and
- ii). The Accounting Officer should within 30 days of the adoption of this report avail to the Auditor-General for verification, the signed report used to support payment to the consultant. Auditor-General to provide a status update in the subsequent audit cycle.

5. Failure to Prepare Municipal Integrated Development Plan

The statement of financial position and Note 24 to the financial statements reflect property, plant and equipment balance of Kshs 30,682,330 which includes additions during the year amounting to Kshs. 18,368,043. However, Management did not prepare a Municipal Integrated Development Plan for the year under audit and therefore the basis of the development projects implemented during the year could not be ascertained. This was contrary to Section 9(3)(b) of the Urban Areas and Cities Act, 2011 (Amended in 2019) which states that, a town is eligible for the conferment of municipal status under this Act if the town satisfies a number of criteria including having an integrated development plan in accordance with this Act.

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

Management Responses

Management responded as follows –

The Municipality is in a process of developing Intergrated Development plan (IdeP). Currently the Municipality is using the County Integrated Development Plan (CIDP) and The Annual Development Plan (ADP) for Implantation of its Projects.

Committee Observation

The Committee the query remains unresolved as the Municipality did not have an Integrated Development Plan and no evidence was provided demonstrate that the Municipality was in the process of developing one.

Committee Recommendation

The Committee recommends that within 90 days of the adoption of this report the Municipality of Kinango should develop and Integrated Development Plan in accordance with Section 9(3)(b) of the Urban Areas and Cities Act, Cap. 275 and

submit evidence of the same to the Auditor-General for verification. The Auditor-General to provide a status report in the subsequent audit cycle.

6. Unsupported Supplementary Budget

The Municipality had an original approved budget of Kshs.3,100,000 and Kshs.50,000,000 and final supplementary budget of Kshs.3,100,100 and Kshs.46,900,000 for recurrent and development votes respectively. However, the approved supplementary estimates lacked information regarding actual expenditure and commitments against the planned activities as at the date of request for supplementary allocations and footnotes explaining the reasons for the variations and the impact or implications for the affected programmes. This is 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 and 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, Management was in breach of the law.

Management Response

Management responded as follows –

The Memorandum exists and was provided for scrutiny.

Committee Observations

The Committee observed that whereas the Memorandum to the County Treasury to support the Supplementary Budget was provided and verified by the Auditor-General and the query marked as resolved, the submission was done outside the timelines contemplated under the Public Audit Act and constitute an offense under section 62(2) of the Public Audit Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in accordance with section 9(1)(e) of the Public Audit Act Cap. 412B, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Lack of Transfer of Delegated Authority

The transfer of the delegated functions to the Municipality had not been implemented as at 30 June, 2024 as the control over the development budget and actual performance were still held by the parent department. Further, the development budget allocation of Kshs.46,900,000 was under the control of the County Chief Officer responsible for the Department of Environment and Natural Resources. This is contrary to Section 20 of the Urban Areas and Cities Act, 2011(as Amended in 2019), which states that subject to the provisions of this Act a board of a city or municipality shall – (a) oversee the affairs of the city or municipality; (b) develop and adopt policies, plans, strategies and programmes, and may set targets for delivery of services; (c) formulate and implement an integrated development plan.

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

Management Response

Management responded as follows –

The Municipal Manager was given full Accounting Officer mandates on 30th October 2023 and controls the Departmental functions for the entire financial year including the development Budget of Kshs.46,900,000.

With reference letter Vide Number C.G/KWL/3/16.VOLIV/(47) Dated 13th September 2023 and Change of signatories Vide Letter Reference C.G/KWL/3/16.VOL16IV(38). Dated 31 October 2023 and Accounting officer Reference number C.KWL/3.ACCTS./(14). The letters were provided for scrutiny.

Committee Observation

The Committee observed that the query remains unresolved as the County Government of Kwale has yet to fully operationalize the autonomy of the Municipality of Kinango.

Committee Recommendations

The Committee recommends that within 90 days of the adoption of this report, the Governor the operational autonomy of Municipality of Kinango is fully actualized in accordance with sections 169 – 181 of the Public Finance Management Act as read together with sections 12 (Structures and management of cities, municipalities), 20 (Governance and management functions of a board), 45 and 46 (financial autonomy) and provide evidence of the same to the Auditor-General for verification and monitoring. The Auditor-General should provide a status update in the subsequent audit cycle.

CHAPTER NINE

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF KWALE FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kwale County, Hon. Fatuma Mohamed Achani, EGH, appeared before the Committee on Thursday, 20th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Kwale for financial year 2023/2024. She was accompanied by –

- | | |
|--------------------|--------------------------|
| 1. Ms. Saumu Beta | - CECM Environment |
| 2. Mr. Alex Onduko | - Chief Officer, Finance |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of Municipality of Kwale for the period under review on the following basis –

1. Unsupported Financial Statements Balances

The financial statements submitted for audit had the following unsupported balances,

- i. The revised set of financial statements reflected adjustments of various balances from the previously submitted statements as indicated below but which were however not supported with schedules and journal entries.

Description	Original Financial Statements Balance	Revised Financial Statements Balance	Adjustments
Transfer from the county government	5,184,037	66,318,681	61,134,644
Depreciation and Amortization	3,693,060	3,548,426	(144,634)
Receivables from non-exchange transactions	16,683,427	0	16,683,427
Property, Plant and Equipment	126,332,794	128,320,363	(1,012,431)

- ii. Information from Management in response to draft audit report indicate grants received from Kenya Urban Support Programmes of Kshs. 11,462,356 which was neither supported nor disclosed in the financial statements.
- iii. The statement of comparison of budget and actual amounts erroneously reflects recurrent and development expenditure original budget amounts of

Kshs. 14,357,105 and Kshs. 101,774,548 instead of Kshs.23,142,091 and Kshs.46,500,000 respectively. In addition, adjustments between the original approved budget and final approved budget of Kshs.8,784,986 and Kshs.55,274,548 for recurrent and development expenditure respectively were not reflected in the statement.

- iv. The statement of cashflow reflect purchase of property, plant and equipment and intangible assets of Kshs. 72,621,147 under cashflow from investing activities yet there was no evidence of funds outflow from the Municipality accounts. In addition, the financial position and the statement of changes in equity reflects capital/development grants of Kshs.2,339,915. The variance of Kshs. 70,281,232 was not explained or reconciled.
- v. The statement of financial performance reflects use of goods and services amount of Kshs.4,751,053 which includes domestic travel and subsistence allowance, printing, advertising, supplies and services, hospitality supplies and services and other operating expenses amounts of Kshs.2,424,060, Kshs.31,730, Kshs.312,055 and Kshs.72,663 respectively which were not supported with schedules.

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

Management Response

Management responded as follows –

- i. The original Financial statements had Kshs. 5,184,037 as use of goods and Revised to Kshs 66,318,681. The Difference was Kshs.61,134,644 which was as a result of capital expenditure items.
- ii. The Depreciation was revised to Kshs.3,548,426 for the year after removing some assets that belong to the department of Environment, Lands and Natural resources.
- iii. The Receivables from Non-exchange transactions of Kshs.16,683,427 was amended to Nil after we realized that we had made an error hence, we re-submitted the corrected financial statements with Nil Balance.
- iv. The variance in Property, Plant and Equipment of Kshs. (1,012,431) was a result of some assets which were removed from the asset register as they belonged to the department of Environment, Land and Natural Resources.
- v. The difference between Kshs. 30,682,330 and Kshs 18,054,388 (Kshs.12,627,942.00) added to a Deprecation Kshs 509,713 results to Kshs.13,137,655 which was in Plant, Property and Equipment's, included in the additions of Assets – Roads in respect for Two Roads which were done

by the end of the Financial year but payment had not been made hence did not result to cash outflow.

- vi. The management confirms that it received grants from Kenya Urban Support Programme I of Kshs 11,462,356 and the money forms part of Transfers from the County Government. This money was spent for Beautification of Baraza Park Phase II, Purchase of Skip Bins and Litter Bins.

SNO	PAYEE	DESCRIPTION	AMOUNT
1.	Cadilac Tradelink Ltd.	Beautification of Baraza Park Phase II	7,99,4,3335.51
2.	Wise Brothers Contractors and General Suppliers	Purchase of Skip Bins	3,420,000
3.	Smarton Trading Company	Purchase of Litter Bins	48,000
	Total		11,462,355.51

- vii. Statement of comparison of Budget and Actual amounts had an original budget of Kshs.23,142,091 was revised through supplementary 1 & 11 by Ksh.8,784,986 to Kshs. 14,357,105 for recurrent which was reinstated. The original budget for Capital expenditure of Kshs.46, 500,000 was revised through supplementary I & II by Kshs.55,274,548 to Kshs.101,774, which was corrected and reinstated.

The comparison of Budget and Actual has been reinstated to show the actual figures and the supplementary adjustments to give the final.

- viii. The Amount of Kshs.72,621,147 for assets were in our books of Accounts, Kwale Municipality Development Funds are Paid Centrally and direct to the Suppliers and contractors from the County Treasury because Kwale County has one Central Bank Development Account and Special Purpose Account for grants money where all county Development Payments are done. The Variance of Kshs. 70,281,232 were Payments made Using Exchequer of Kshs.61,158,791 and the remaining for Grants of Kshs. 9,122,441.
- ix. All schedules were provided.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). The assets that were removed from the asset register, which management had indicated that they belonged to the department of Environment, Lands and Natural resources, were not indicated;
- ii). some transactions were not fully explained
- iii). Management made amendments and adjustments to the financial statements beyond the audit timelines; and
- iv). The numerous inaccuracies are an indication of weak internal control systems.

Committee Recommendations

The Committee recommends that –

- i). **The Accounting Officer should, within 30 days of adoption of this report provide a comprehensive explanation for all outstanding transactions and the assets that were removed from the asset register to the Auditor-General for verification;**
- ii). **The Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply;**
- iii). **The Accounting Officer should strengthen internal audit controls and ensure proper record keeping;**
- iv). **The Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and**
- v). **The Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 534.**

Emphasis of Matter

Under Emphasis of matter, the Auditor-General raise the following issue –

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final recurrent receipts budget and actual amounts on comparable basis of Kshs.14,357,105 and Kshs.5,184,037 respectively, resulting to under-funding of Kshs.9,173,068, or 64% of the budget. Similarly, the Municipality spent a balance of Kshs. 72,597,855 against

approved capital budget of Kshs. 101,774,548, resulting to an under-utilization of Kshs. 29,176,693 or 29% of the budget.

The under-funding and under-utilization may have impacted negatively on the Municipality's activities.

Management Response

Management responded as follows –

The management concurs with the auditors observation, the underfunding was due to late disbursement of funds from the National treasury.

Committee observation

The Committee observed that the query remains unresolved as there was a budgetary under-funding of Kshs.9,173,068, or 64% of the budget and an under-utilization of Kshs. 29,176,693 or 29% of the budget. This was linked to delays in disbursement of funds by the National Treasury.

Committee Recommendations

The Committee recommends that –

- i). **the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply; and**
- ii). **The National treasury should ensure timely disbursement of funds to counties in accordance with the disbursement schedule passed by the Senate.**

Other Matter

The following query was raised under Other Matter –

1. Unresolved Prior Year Audit Issues

In the auditor's report of the previous year, several issues were raised under report on the financial statements and report on the effectiveness of internal controls, risk management and governance. However, the issues remained unresolved as at 30 June, 2024, contrary to Section 149(2)(1) of the Public Finance Management Act, 2012 which requires the accounting officers designated to try to resolve any issues resulting from an audit that remain outstanding.

Management Response

Management submitted that all prior issues were resolved.

Committee Observations

The Committee observed that the query remains unresolved. While progress had been made in addressing prior years' matters, some queries were still outstanding.

Committee Recommendation

The Committee recommends that the Accounting Officer responsible for the water company should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap 412A failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply. The Auditor-General to monitor progress and provide a status update in the subsequent audit cycle.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Failure to Submit Performance Bond

The statement of financial position and Note 24 to the financial statements reflects Work in Progress amounting to Kshs.54,152,648. Included in this amount is Kshs.9,825,345 incurred in respect to construction of perimeter wall and toilet for the Kwale Baraza Park Beatification Project. The tender was advertised in the Public Procurement Information Portal (PIIP) on 24 November, 2023, seven (7) bidders responded and on evaluation, the successful bidder awarded the contract at a sum of Kshs. 17,828,165. However, review of the procurement documents revealed that the winning bidder did to submit performance bond.

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

Management Response

Management responded as follows –

The Contract was for Construction of Perimeter wall for Baraza Park Phase II at the cost of Kshs. 17,828,165. The Tender was Reserved for Women under the Access to Government Procurement Opportunities (AGPO) Women category who are exempted

from Providing Performance Bond as per Article 61, (1) and (5) and Article 142 (3) of Public Procurement and Disposal Act (PPDA) 2015.

Committee Observations

The Committee observed that the query remains unresolved as the winning bidder did not submit a performance bond in accordance with regulation 135(1) of the Public Procurement and Asset Disposal Regulations, 2020.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure compliance with regulation 135(1) of the Public Procurement and Asset Disposal Regulations, 2020 failure to which provisions of section 177 of the Public Procurement and Asset Disposal Act 412C on penalties for offenses shall apply.

2. Unsupported Supplementary Budget

The Municipality had recurrent and development original approved expenditure budget of Kshs.23,142,091 and Kshs.45,500,000 and final supplementary budget of Kshs. 14,357,105 and Kshs.116,131,653 respectively. However, the approved supplementary estimates lacked information regarding actual expenditure and commitments against the planned activities as at the date of request for supplementary allocations and footnotes explaining the reasons for the variations and the impact or implications for the affected programmes. This was 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 and shall include (b) the actual expenditure and the outstanding liabilities or commitments against the item on the date when the request is made; (c) the amount of the supplement required, the reasons why the supplement is necessary and why it has not been possible to keep within the voted provision; (f) an analysis of the fiscal impact of the additional expenditure, or of the implications, if any, for the planned outputs and outcomes of the affected programmes and 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 addition, the final supplementary development budget of Kshs. 116,131,653 included pending bills from previous years of Kshs.53,324,548 while the statement of financial position as at the 30 June, 2023 reflected trade and other payables balance of Kshs.2,044,957. The variance of Kshs. 51,279,591 was not explained or reconciled.

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

Management Response

Management responded as follows –

We acknowledge that the memorandum lacked justifications as at the time of audit however the management rectified and a copy of the memorandum is hereby attached.

Committee Observation

The Committee observed that the query remains unresolved as the justifications for the supplementary budget were omitted in the memorandum and were only submitted outside the audit timelines, which constitutes an offense under the Public Audit Act Cap. 412.

Committee Recommendation

The Committee recommends that –

- i). the Accounting Officer should ensure timely submission of documents during the audit process in accordance with section 9(1) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act; and
- ii). The Auditor-General to review the memorandum and submit a status update on the same within 30 days of the adoption of this report.

3. Irregular Charge on Cash Vote

The statement of financial performance reflects total expenditure of Kshs.8,731,979. Review of the IFMIS payment details revealed that payments amounting to Kshs.5,897,556 were made on the cash vote and not on the line items as budgeted. No explanation was provided for failure to process the transactions through the respective expenditure line items. This is contrary to Regulation 53(1) of the Public Finance Management (County Governments) Regulations, 2015, which provides that, except as provided for in the Act and the Regulations, an Accounting Officer of an entity may not authorize payment to be spending made out of funds earmarked for specific activities for purposes other than those activities.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.5,897,556 could not be confirmed.

Management Response

Management responded as follows –

The Payment made of Kshs. 5,897,556 on cash vote was money received by the Municipality as Imprest from the County Treasury. The expenditure is however invoiced through the vote lines and processed by cheque.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). Management failed to do a reconciliation between cash vote and the expenditure vote;
- ii). Any expenditure charged to cash vote should be posted to the correct expenditure vote by the end of the financial year and no evidence was provided to show that the same has been done.

Committee Recommendations

The Committee recommends that –

- i). The Accounting Officer should undertake a reconciliation of the cash vote and the expenditure vote and ensure that the adjustments are reflected as prior year adjustments in the financial statement of the subsequent financial year. The Auditor-General to provide a status update on the matter in the subsequent audit cycle;
- ii). The Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records failure to which provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply;
- iii). The Accounting Officer should strengthen internal audit controls and ensure proper record keeping;
- iv). The Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and
- v). The Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 534.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Regularity of Imprest Management

The statement of financial performance and Note 12 to the financial statements reflect use of goods and services amount of Kshs.5,183,553 out of which Kshs.2,302,150 was expenses incurred through imprests. However, Management did not maintain memorandum cashbook for the standing imprest and imprest register for temporary imprests.

In the circumstances, the effectiveness of imprest management and control could not be confirmed.

Management Response

Management responded as follows –

The Municipality does not issue a standing imprest and therefore does not maintain Imprest register. All payments are made through claims since the activities are already executed.

Committee Observations

The Committee observed that the query remains unresolved as the Memorandum of Cashbook was not provided.

Committee Recommendation

The Committee recommends that –

- i). the Accounting Officer should ensure timely submission of documents during the audit process in accordance with section 9(1) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in line with section 62(2) of the Public Audit Act; and
- ii). Within 30 days of the adoption of this report, the Accounting Officer should submit the memorandum of cashbook to the Auditor-General for verification. The Auditor-General to submit a status update

CHAPTER TEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF LAMU FOR THE FINANCIAL YEAR 2023/2024

The Governor of Lamu County, Hon. Issa Timamy, EGH, appeared before the Committee on Tuesday, 18th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Lamu for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

- | | |
|-------------------------|--------------------|
| 1. Dr. Mbarak Mohammed | -CEC Health |
| 2. Mohammed Ali | -CECM-Finance |
| 3. Abdul Rashid Abdalla | -Municipal Manager |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Municipality of Lamu for the financial year on the following basis—

1. Undisclosed Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment balance of Kshs.112,459,165. However, the balance omits various assets, in the possession and utilized by the Municipality in her daily operations, but which are still owned by the County Executive. In addition, the County Executive incurred Kshs.21,326,553 on implementation of various projects within the Municipality's jurisdiction which have also been omitted from these financial statements.

In the circumstances, the accuracy, completeness and ownership of property, plant and equipment balance of Kshs.112, 459,165 could not be confirmed.

Management Response

The following assets are currently in use and actual possession of the Municipality of Lamu for its daily operations but legal ownership was registered under the County Executive

To regularize this, the Lamu Municipal Manager through Letter Ref No. submitted an official request. CGL/MM/CS/VOL.1/101 dated 31st October 2024.

In response, the County Secretary vide a letter reference number CGL/CS/VOL.1/1/11, dated 1st November 2024, advised of the County Executive's Commitment and commencement of the process of transferring legal ownership of the Assets to the Municipality of Lamu. This will ensure proper accounting and reporting in subsequent financial statements.

The Kshs. 21,326,553 spent on projects within the Municipality's jurisdiction was funded and managed directly by the County Executive as per the detail below:

Prior to this approval, the County Government had already committed Kshs.2, 958,000 for the zoning regulation standards of Amu Island and Wiyoni. However, the remaining Kshs. 2,586,951, which had not been committed, could not be utilized due to:

1. The delayed approval of the Supplementary Budget, which affected the timely allocation of funds.
2. A directive from the State Department for Housing and Urban Development (Ref. No. MLPWHUD/HUD/UD/5/14/1/VOL.VII (48), dated 23RD August 2023), advising counties not to commit any unallocated funds by 31st December 2023.

Committee Observations

The Committee observed that—

- i. various assets utilised by the Municipality were omitted from the Municipality's financial statements as the ownership of the assets was yet to be transferred from the County Executive to the Municipality;
- ii. the expenses amounting to Kshs.21,326,553 on implementation of projects within the Municipality's jurisdiction were excluded from the Municipality's financial statements as the expenses were incurred by the County Executive, an indication that the Municipality lacked autonomy in its operation.

Committee Recommendations

The Committee recommends that—

- i. within sixty (60) days of the adoption of this report, the Governor of Lamu County ensures that the ownership of all assets being utilised by the Municipality be transferred from the County Executive to the Municipality; and
- ii. the Governor of Lamu County ensures that operational autonomy and independence of the Municipality of Lamu is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act; and
- iii. the Auditor-General to monitor the implementation of the above recommendation and provide a status update on the same during the subsequent audit cycle.

2. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.5,548,476. Similarly, the Municipality spent a total amount of Kshs.2,961,525 against actual receipts of Kshs.5,548,476 resulting to an under-utilization of Kshs: 2,586,951 or 47% of the actual receipts.

The under-utilization have negatively impacted on the planned activities of the Municipality which affected service delivery to the public.

Management Response

No management response provided.

Committee Observations

The Committee observed that the Municipality failed to absorb Kshs.2,586,951 or 47% of its budget during the financial year under review.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

1. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised. However, even though Management indicates the issues as resolved, the resolution is not supported.

Management response

- i. Lack of Independence by the Municipality of Lamu

The Municipality of Lamu has reached a crucial stage in its journey toward full autonomy, transitioning from a departmental unit to an independent municipal entity. This transformation has been driven by key structural and operational advancements that enhance governance, financial sustainability, and service delivery.

A major achievement in this transition is the establishment of a well-defined administrative structure. The municipality now operates under the leadership of a designated Municipal Manager, supported by a functional municipal workforce and an

active Municipal Board. These structures are vital in ensuring efficient governance and service delivery, in line with the Urban Areas and Cities Act, 2011.

The gazettelement of the municipality, as outlined in Gazette Notice No. 15617. (Gazettelement) is a legal process that officially acknowledges and enumerates the specific functions and responsibilities of the municipality. This means that the Municipality of Lamu has been granted the authority to manage and govern various urban affairs independently. The gazettelement serves as a formal legal recognition that empowers the municipality to execute its duties effectively, aligning with the structured governance and urban development principles highlighted in Article 184 of the 2010 Constitution of Kenya.

To improve its operational capacity, the municipality has officially requested for the transfer of assets to gain full ownership and control over crucial infrastructure and properties. Additionally, it has successfully set up operational accounts. (Request letter to open Municipality Account) and (Municipality Accounts) to ensure proper financial management and efficient execution of development programs. These measures comply with the Public Finance Management Act, 2012, which aims to promote accountability in the management of devolved resources.

Furthermore, with support from the Kenya Urban Support Program II (KUSP II) through the Urban Institutional Grant (UIG), the municipality has allocated funds to develop a policy framework and laws for optimizing its own-source revenue. This initiative aims at ensuring long-term financial sustainability and enhancing service delivery for the residents of Lamu under the devolved governance system. (vote item line contractual professional service).

ii. Under-absorption

Under-absorption was due to the delay of approval of supplementary budget.

Committee Observations

The Committee observed that the municipality had unresolved prior year matters demonstrating management lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(I) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of**

- section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Lack of Operational Independence of the Municipality

As previously reported, the Municipality of Lamu was established on 23 July, 2018 through Municipality of Lamu Charter and gazettelement of Municipality of Lamu Board on 27 September, 2019. The statement of financial performance reflects expenditure on use of goods and services totaling Kshs.2,961,525 through Kenya Urban Support Program (KUSP) funding. Further review of IFMIS payment details revealed that payments totaling to Kshs.21,326,553 was processed by the Department of Lands, Physical Planning, Urban Development and Infrastructure of the Lamu County Executive on behalf of the Municipality an indication that the functions of the Municipality are still being undertaken by the Department of Lands, Physical Planning, Urban Development and Infrastructure.

In the circumstances, the operational independence of the Municipality could not be confirmed and Management was in breach of the law.

Management Response

The Municipality of Lamu has reached a crucial stage in its journey toward full autonomy, transitioning from a departmental unit to an independent municipal entity. This transformation has been driven by key structural and operational advancements that enhance governance, financial sustainability, and service delivery.

A major achievement in this transition is the establishment of a well-defined administrative structure. The municipality now operates under the leadership of a designated Municipal Manager, supported by a functional municipal workforce and an active Municipal Board. These structures are vital in ensuring efficient governance and service delivery, in line with the Urban Areas and Cities Act, 2011.

The gazettelement of the municipality, as outlined in Gazette Notice No. 15617, is a legal process that officially acknowledges and enumerates the specific functions and responsibilities of the municipality. This means that the Municipality of Lamu has been granted the authority to manage and govern various urban affairs independently. The gazettelement serves as a formal legal recognition that empowers the municipality to execute its duties effectively, aligning with the structured governance and urban development principles highlighted in Article 184 of the 2010 Constitution of Kenya.

To improve its operational capacity, the municipality has officially requested for the transfer of assets to gain full ownership and control over crucial infrastructure and properties. Additionally, it has successfully set up operational accounts (to ensure proper financial management and efficient execution of development programs. These measures comply with the Public Finance Management Act, 2012, which aims to promote accountability in the management of devolved resources.

Furthermore, with support from the Kenya Urban Support Program II (KUSP II) through the Urban Institutional Grant (UIG), the municipality has allocated funds to develop a policy framework and laws for optimizing its own-source revenue. This initiative aims at ensuring long-term financial sustainability and enhancing service delivery for the residents of Lamu under the devolved governance system.

Committee Observations

The Committee observed that the operations of the Municipality lacked autonomy.

Committee Recommendations

The Committee recommends that—

- i. **the Governor of Lamu County takes immediate steps to operationalise the Municipality to achieve its intended purpose and further ensure it has opened a separate bank account by the end of the Financial Year 2023/2024; and**
- ii. **the Governor of Lamu County ensures that operational independence within the Municipality of Lamu is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, and the Auditor General to verify the implementation of this recommendation in the next audit cycle.**

2. Irregular Contract for Zoning Standards, Regulations and Guidelines

The statement of financial performance reflects expenditure on use of goods and services totaling Kshs.2,961,525 out of which Kshs.2,958,000 was paid to a local consultant for the preparation of zoning standards, regulations and guidelines for Lamu

Old Town and Wiyoni. The tender No.CGL/ONT/MUN/030/2022-2023 was awarded on 5 June, 2023, contract and purchase order dated and signed on 15 June, 2023 without the written approval of the Accounting Officer contrary to provisions of Regulation 50 (1) of the Public Finance Management (County Governments) Regulations, 2015 which requires 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.

Further, although full payment was made and final draft report submitted, reviewed by the Board and forwarded to the County Executive for adoption on 20 December, 2023, the zoning standards, regulations and guidelines had not been submitted to the County Assembly for review and approval.

In the circumstances, the value for money on expenditure on use of goods and services totaling Kshs.2, 958,000 could not be confirmed and Management was in breach of the law.

Management Response

During the financial year 2022/2023, the project requisition began on 1st March, 2023, due to the elections and transition of the newly elected government. The evaluation committee was appointed on 19th March, 2023, and tender evaluations took place on 22nd May, 2023. A professional opinion was issued on 23rd May, 2023, which was towards the end of the financial year which necessitated the issuance of the authorization letter by the Manager to ensure the smooth implementation of the program.

The Municipality of Lamu finalized the payment for the zoning standards, regulations, and guidelines report for Lamu Old Town and Wiyoni on June 24th, 2024. The report was then forwarded to the County Executive for adoption and subsequently sent to the County Assembly for approval.

Committee Observations

The Committee observed that—

- i. The Municipality has forwarded the report on zoning standards, regulations and guidelines for Lamu Old Town and Wiyoni to the County Assembly for approval; and
- ii. whereas the letter of approval of the Accounting Officer was provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle; and**
- ii. the Governor of Lamu County engages the County Assembly to fast-track the approval process of the zoning standards, regulations and guidelines within sixty (60) days of the adoption of this report.**

CHAPTER ELEVEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF LUNGA LUNGA FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kwale County, Hon. Fatuma Mohamed Achani, EGH, appeared before the Committee on Thursday, 20th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Lunga Lunga for financial year 2023/2024. She was accompanied by –

- | | |
|--------------------|--------------------------|
| 1. Ms. Saumu Beta | - CECM Environment |
| 2. Mr. Alex Onduko | - Chief Officer, Finance |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of Municipality of Lunga Lunga for the period under review on the following basis-

1. Inaccuracies in the Financial Statements

Review of the financial statements submitted revealed the following anomalies –

- i. The statement of financial performance reflects use of goods and services amount of Kshs.8,353,433 while the disclosure Note 12 to the financial statements reflect Kshs. 18,550,123. The variance of Kshs. 10,196,690 was not explained or reconciled.
- ii. The capital funds received during the year was amended from Kshs.6,900,000 to Kshs. 16,300,000 in the revised financial statements. However, the amendment is not supported with journal voucher and schedule.
- iii. The description for totals revenue from non-exchange transaction is not indicated.
- iv. The statement of financial position reflects property, plant and equipment balance of Kshs.53,321,202 while Note 24 to the financial statements reflect Kshs. 33,724,512, The variance of Kshs. 19,596,690 was not explained or reconciled. In addition, the property, plant and equipment schedule at Note 24 to the financial statements erroneously includes depreciation charge on computers purchased on June, 2024 of Kshs. 10,000. The items did not qualify for depreciation in the year under review.

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

Management Response

Management responded as follows –

- a. As reported in note 12 of the financial statements, Ksh.18,550,123 was the actual amount on use of goods and services, however the management confirms that there was an under cast of ksh 10,196,690, which will be addressed in the subsequent year adjustments of FY 2024/2025.
- b. The amendment of the capital funds received of Ksh. 9,400,000 was journalized and a schedule is provided.
- c. The management has noted the Auditors observation and the same will be corrected.
- d. The variance of the Property Plant and Equipment amount of Ksh. 19,596,690 between the statement of financial position and Note 24 to the financial statements is Work In Progress on the following projects.

No.	Description	Amount
1.	Purchase of land for cemetery at Lunga Lunga	9,400,000
2.	Review of Lunga Lunga Urban Plan	10,196,690
	Total	19,596,690

This amount was erroneously omitted in Note 24 to the financial statements. The same was noted and will be corrected in subsequent year adjustments and subsequent reporting of FY 2024/2025.

The depreciation for computers purchased in June 2024 was prorated. The depreciation charge of Ksh. 10,000 therefore, is the charge for one month.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). there were significant financial statement discrepancies such as –
 - unsupported amendments.
 - Inconsistencies in statements.
 - unsupported adjustments.
 - Unreconciled variances.

The discrepancies are an indication of capacity challenges in the finance and accounting sections.

- ii). management failed to undertake the necessary adjustments and reconciliation of the financial statements as well as provision of supporting documents at the time of audit;

- iii). management made amendments and adjustments to the financial statements beyond the audit timelines, and these changes have yet to be verified by the Auditor-General; and
- iv). the numerous inaccuracies are an indication of weak internal control systems.

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should ensure that the inaccuracies observed in the financial statements are adjusted accordingly using the relevant journal entries and reflected as prior year adjustments in the financial statements of the subsequent financial year. Auditor-General to provide a status update on the matter in the subsequent audit cycle;
- ii). the Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records;
- iii). the Accounting Officer should strengthen internal audit controls and ensure proper record keeping;
- iv). the Accounting Officer should enhance the capacity of officers preparing financial statements to comply with the accounting standards and should further invest in technology and processes that reduce inaccuracies in the preparation of financial statements; and
- v). the Accounting Officer to take administrative action on the officers within the Accounts and Finance department who fails to keep complete financial records in accordance with their terms and conditions of appointment or employment and as required by the Accountants Act, Cap. 534.

Emphasis of Matter

Under Emphasis of matter, the Auditor-General raise the following issue –

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on comparable basis of Kshs. 20,765,488 and Kshs. 7,727,771 respectively, resulting in under-funding of Kshs. 13,037,717, or 63% of the budget. Similarly, the Municipality incurred Kshs.7,725,799 and Kshs. 6,900,000 on recurrent and capital expenditure against approved budget Kshs.20,765,488 and Kshs.33,734,512, resulting in under expenditure of Kshs. 13,039,689 and Kshs.26,834,512, or 63% and 80% respectively of the budget.

The under-funding and under expenditure may have impacted negatively on the Municipality's activities.

Management Response

Management responded as follows –

The management concurs with the auditors observation, the underfunding was due to late disbursement of funds from the National treasury.

Committee Observations

The Committee observed that the query remains unresolved as there was a budgetary under-funding of Kshs. 13,037,717, or 63% of the budget of the budget and an under-expenditure on both recurrent and capital expenditure Kshs. 13,039,689 and Kshs.26,834,512, or 63% and 80% respectively of the budget. This was linked to delays in disbursement of funds by the National Treasury.

Committee Recommendations

The Committee recommends that –

- i). the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures; and
- ii). the National treasury should ensure timely disbursement of funds to counties in accordance with the disbursement schedule passed by the Senate.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Land Purchase in the Name of the County Government of Kwale

The statement of financial position and Note 24 to the financial statements reflects property, plant and equipment balance of Kshs. 33,734,512 which includes two parcels of land of approximated area of 4.0 Ha. and 8.17 Ha., acquired during the year at costs of Kshs.6,500,000 and Kshs.9,400,000 for dumpsite and cemetery respectively. However, the parcels of land are registered in the name of the County Government of Kwale and not the Municipality Board This is contrary to Section 12(2) of Urban Areas and Cities Act, 2011 and Section 6(2)(b) of the Municipality Charter that states that the board of the Municipality shall be a corporate body with a perpetual succession and a common seal and shall in its own corporate name be capable of (b) taking, purchasing

or otherwise acquiring, holding, charging or disposing of movable and immovable property.

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

Management Response

Management responded as follows –

The municipality acquired two parcels of land for the dump site and cemetery respectively. The municipality has no KRA PIN and these parcels could not therefore be registered in its own name. The municipality is in the process of acquiring its PIN after which these parcels of land will be transferred from the county Government to Lungalunga Municipality.

Committee Observations

The Committee observed that the query remains unresolved as the parcels of land are registered in the name of the County Government of Kwale and not the Municipality Board since the Municipality did not have a KRA Pin.

Committee Recommendations

The Committee recommends that the Governor should ensure that within 90 days of the adoption of this report, the Municipality has a KRA Pin and the two parcels of land are transferred in favor of the Municipality and provide copies of Title Deeds to Auditor-General for verification. Auditor-General to provide a status update on the matter in the subsequent cycle.

2. Undisclosed Contingent Liability

The statement of financial position and Note 26 to the financial statements reflects trade and other payables balance of Kshs. 37,658,836 which includes outstanding invoice dated 12 June, 2024 of Kshs.5,826,680 in respect of situation analysis report which had not been paid and may attract interest on delayed payments as per the contract agreement. However, there was no disclosure of contingent liability on penalties for unpaid bills.

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

Management Response

Management responded as follows –

The Auditors observation has been noted. The outstanding invoice of Kshs. 5,826,680 in respect of situation analysis report has since been fully paid, hence averting the risk

of interest attraction. In the unlikely event of a similar occurrence, the municipality will make a provision for contingent liabilities for any probable interests and penalties.

Committee Observations

The Committee observed that the query remains unresolved for the following reasons –

- i). No evidence was provided to support the payment of the contingency liability;
- ii). Management failed disclose the contingent liability in the financial statements and did not have a plan in place to ensure adjustments for the same were provided as prior year adjustments in the financial statements of the subsequent financial year.

Committee Recommendation

The Committee recommends that –

- i). the Accounting Officer should within 30 days of the adoption of this report submit to the Auditor-General for verification, evidence to support the payment of the contingent liability and the Auditor-General to provide a status update on the matter within 30 days of receipt of the same;
- ii). the Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records;
- iii). the Accounting Officer should ensure prior year adjustments are made to the financial statements for the subsequent financial year to reflect the contingency liability. The Auditor-General to provide a status update in the subsequent audit cycle; and
- iv). the Accounting Officer should comply with section 149(2) of the Public Finance Management Act, Cap. 412A regarding preparation and management of financial and accounting records.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Lack of Transfer of Delegated Authority

Review of expenditure records, reflects that transfer of the delegated functions had not been implemented as at the 30 June, 2024 as control over development budget and actual performance were still held by the County Treasury. Further, the development

budget allocation of Kshs.33,734,512 was fully under the control of the County Treasury as the capital funds are not transferred to the Municipality's bank account.

In the circumstances, Municipality might not fully deliver on its mandate.

Management Response

Management responded as follows –

The County Executive Committee had approved and delegated the functions to be undertaken by the Municipality of Lunga Lunga as evidenced by a Gazette notice. The municipal manager has control over the operations of the Municipality as evidenced by a Letter offering accounting rights to the Municipality Manager as the Accounting Officer.

Additionally, the payments are initiated and approved at the municipality level and the County Treasury only submits them. The municipality, however, are still under the County Executive Ledger.

Committee Observations

The Committee observed that the query remains unresolved as the County Government of Kwale has yet to fully operationalize the autonomy of the Municipality of Lunga Lunga.

Committee Recommendations

The Committee recommends that within 90 days of the adoption of this report, the Governor the operational autonomy of Municipality of Lunga Lunga is fully actualized in accordance with sections 169 – 181 of the Public Finance Management Act as read together with sections 12 (Structures and management of cities, municipalities), 20 (Governance and management functions of a board), 45 and 46 (financial autonomy) and provide evidence of the same to the Auditor-General for verification and monitoring. The Auditor-General should provide a status update in the subsequent audit cycle.

2. Failure to Prepare Municipal Integrated Development Plan

The statement of financial position and Note 24 to the financial statement reflect property, plant and equipment balance of Kshs.33,734,512 which includes capital project Work in Progress amounting to Kshs. 17,434,512. However, Management did not prepare a Municipal Integrated Development Plan and therefore the basis of the development project implemented during the year could not be ascertained. This contrary to Section 9(3)(b) of the Urban Areas and Cities Act, 2011 (Amended in 2019) which provides that, a town is eligible for the conferment of municipal status under this

Act if the town satisfies a number of criteria including having an integrated development plan in accordance with this Act.

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

Management Response

Management responded as follows –

The management has noted the Auditors observation. However, the basis of the development project implemented during the year was derived from the County Integrated Development Plan 2023-2027 (CIDP) and the County Annual Development Plan 2023/2024 FY (CADP).

Committee Observations

The Committee the query remains unresolved as the Municipality did not have an Integrated Development Plan and no evidence was provided demonstrate that the Municipality was in the process of developing one.

Committee Recommendations

The Committee recommends that within 90 days of the adoption of this report the Municipality of Lunga Lunga should develop and Integrated Development Plan in accordance with Section 9(3)(b) of the Urban Areas and Cities Act, Cap. 275 and submit evidence of the same to the Auditor-General for verification. The Auditor-General to provide a status report in the subsequent audit cycle.

CHAPTER TWELVE

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF MALINDI FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kilifi County, Hon. Gideon Maitha Mung'aro, OGW, appeared before the Committee on Monday, 10th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Malindi for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

- | | | |
|------------------------|---|-----------------------------|
| 1. Mr. Hezekiah Mwarua | - | Chief Officer- Finance |
| 2. Mr. K. Lughanje | - | County Attorney |
| 3. Mr. Suleiman Salim | - | Chairman, Malindi Municipal |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Municipality of Malindi for the financial year on the following basis—

1. Inaccurate Opening Amounts and Balances

Review of the financial statements revealed comparative restated financial statement amounts and balances that varied with the prior year audited amounts and balances as detailed below:

Particulars	Financial Statement Restated Opening Balance (Kshs)	Prior Year Audited Amount (Kshs)	Variance (Kshs)
Transfers from County Government	174,350,580	199,159,730	24,809,150
Public Contributions	0	1,194,559	1,194,559
Interest Income			
Staff Costs	34,364,452	31,118,644	3,245,808
Use of Goods & Services	89,679,033	57,179,600	32,499,433
Board Expenses	5,395,632	5,395,632	0

Depreciation & Amortization	3,048,529	3,260,763	212,234
Property, Plant & Equipment	545,318,653	253,598,928	291,719,725
Receivable from County Executive	0	4,524,943	4,524,943
Intangible Assets	429,625	0	429,625
Supplies of Goods & Services Payable	34,639,355	0	34,639,355
Deferred Income	19,316,079	0	19,316,079
Accumulated Surplus / Deficit	(13,796,301)	224,502,850	238,299,151
Capital/Development	548,796,807	183,720,366	365,076,441

However, the restatement of amounts and balances have not been supported. In the circumstance, the accuracy and completeness of the opening amounts could not be confirmed.

Management Response

Management responded as follows:-

We are in agreement with the Auditor General's observations.

The Municipality of Malindi had unresolved audit matters from previous financial statements as of 30th June, 2023. In compliance with IPSAS 3 – Accounting Policies, Changes in Accounting Estimates, and Errors, prior-period errors were identified, corrected, and appropriately adjusted through the restatement of opening balances. Adjustment journal vouchers, which detail the adjustments made and the resulting restated figures were provided to the Committee.

Particulars	Financial Statement Restated Opening Balance (Kshs)	Prior Year Audited Amount (Kshs)	Variance (Kshs)	APPENDIX
Transfers from County Government	174,350,580	199,159,730	24,809,150	1.1
Public Contributions	0	1,194,559	1,194,559	1.2

Interest Income				
Staff Costs	34,364,452	31,118,644	3,245,808	1.3
Use of Goods & Services	89,679,033	57,179,600	32,499,433	1.4
Board Expenses	5,395,632	5,395,632	0	
Depreciation & Amortization	3,048,529	3,260,763	212,234	1.5
Property, Plant & Equipment	545,318,653	253,598,928	291,719,725	1.6
Receivable from County Executive	0	4,524,943	4,524,943	1.7
Intangible Assets	429,625	0	429,625	1.8
Supplies of Goods & Services Payable	34,639,355	0	34,639,355	1.9
Deferred Income	19,316,079	0	19,316,079	1.10
Accumulated Surplus / Deficit	(13,796,301)	224,502,850	238,299,151	1.11
Capital/Development	548,796,807	183,720,366	365,076,441	1.12

Committee Observations

The Committee observed that whereas the adjustment journal vouchers and updated ledgers were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

2. Unexplained variances between financial statements amounts and balances supporting schedules

Review of the financial statements revealed amounts and balances in the financial statements that varied with supporting schedules amounts and balances as detailed.

Particulars	Financial Statement Amount (Kshs)	Supporting schedule Amount (Kshs)	Variance (Kshs)
Depreciation & Amortization	99,733,821	80,265,216	19,468,605
Repairs & Maintenance	39,699,320	25,721,829	13,977,491
Property, Plant & Equipment	509,010,133	157,949,608	351,060,525
Retention Money	382,663	0	382,663
Suppliers of Goods & Services Payable	47,718,737	0	47,718,737

However, the variances have not been explained.

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

Management Response

We are in agreement with the Auditor General's observations.

The management provided the Committee the following documents:

- Depreciation & Amortization shown in the Property Plant & Equipment Movement Schedule for the year ended 30th June, 2024.
- Repairs & Maintenance Schedule for the year ended 30th June, 2024.
- Property, Plant and Equipment Schedule for the year ended 30th June, 2024.
- Retention Money shown in the Cashbook for the month of June, 2024 and Bank Reconciliation and Bank Account Statement for NCBA Account No. 5040860029 for the period 01.07.2023 to 30.06.2024.
- Supplier of Goods & Services as contained in the Payables Schedule for the year ended 30th June, 2024.

Committee Observations

The Committee observed that whereas the correct supporting schedules were provided and verified by the Auditor-General, the submission was done outside the timelines

contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

Emphasis of Matter

1. Budgetary Control and Performance

The statement of comparison of Budget and actual amounts reflects final receipts budget and actual on comparable basis of an amount of Kshs. 179,623,742. Similarly, the Municipality spent an amount of Kshs.176,470,086 against actual receipts of an amount of Kshs. 179,623,742 resulting to an underutilization of Kshs. 3,153,656 or 1.8% of the actual receipts.

Management Response

The management was in agreement with the Auditor General's observations as regards the underutilization of Kshs. 3, 153, 656/= representing 1.8% of the actual receipts from the County Executive. The slight underutilization is attributed to delay in the disbursement of funds from the County Executive during the financial year under review.

We appreciate the auditor's assessment and will continue strengthening our budget performance to optimize service delivery

Committee Observations

The Committee observed that the municipality failed to absorb Kshs. 3,153,656 or 1.8% of its budget during the financial year under review due to delay in the disbursements from the County Executive.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

1. Unresolved Prior year Audit Matters

In the audit report of the previous year, several paragraphs were raised under the report on financial statements. Although management indicated the issues were resolved, the proof of how the issues were resolved was not provided for audit.

Management Response

The unresolved prior year audit matters included financial statement matters that were reviewed, corrected and restatements done on the opening balances of financial statements for the year ending the 30th day of June 2024.

Matter	Management Response	Appendices
Inaccuracies in the Financial Statements	The inaccuracies were identified, corrected and opening balances restated in the Financial Year 2023-2024 as a prior year adjustment.	an extract of the Annual Report and Financial Statements for the year ended 30 th June 2024.
Irregular Engagement of Casual	The Kilifi County Public Service Board is in the process of regularizing the appointment of casuals to term contracts.	a copy of the letter dated the 3 rd day of September, 2024 for the verification of casuals.
Budgetary Control and Performance	The Kilifi County Public Service Board has initiated the process of transferring some revenue streams to the municipality to address the underfunding.	a copy of the Notification of and Invitation to Citizen Fora and Public Hearings; and a copy of a report of public participation on revenue collection a copy of Kenya Gazette Notice No. 15619 contained in the Issue Vol. CXXVI – No. 206 and published on the 29 th day of November, 2024 by the H.E. Gideon Maitha Mung'aro, OGW, Governor, Kilifi County;

		and Kenya Gazette Notice No. 14107 contained in the Issue Vol. CXXVI – No. 185 and published on the 31 st day of October, 2024 by the H.E. Gideon Maitha Mung'aro, OGW, Governor, Kilifi County.
Lack of Training needs Assessment	The Municipality of Malindi has a Training Needs Assessment Report in place	a copy of the Municipality of Malindi Training Needs Assessment Report for the Financial Year 2024/2025 – Financial Year 2026/2027.

Committee Observations

The Committee observed that the management of the Municipality did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2022/2023.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. **the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor-General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Delayed Recruitment of the Municipality Manager

Records provided for audit indicate the Municipal Manager of Malindi Municipality assumed the role on 22 May, 2023 through County Public Service Board letter Ref No: CG/KLF/CPSB/HRM/10/Vol.14/97 that also authorized the payment of special duty allowance. No evidence was provided to confirm appointment by the Governor, notification of County Public Service Board within seven days, nor a competitive recruitment process to fill the vacant position within six months. This contrary to the Municipality of Malindi Municipal Charter 2019 Section 32 (1) which stipulates that the Municipal Manager shall be competitively recruited and appointed by the County Public Service Board.

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

Management Response

The appointment referred to in the letter dated the 22nd day of May, 2023 and referenced CG/KLF/CPSB/HRM/10/VOL.14/97 by the Kilifi County Public Service Board was in relation to an appointment of an Acting Municipal Manager position as provided for in Article 37 of the Municipality of Malindi Charter which made provision for the appointment of an Acting Municipal Manager.

Mindful of the provision of Articles 2 (1) of the Constitution of Kenya, 2010 on the supremacy of the Constitution and Article 191 of the Constitution of Kenya, 2010 on conflict of laws; Section 59 (1) (b) of the County Governments Act, Cap 265 of the Laws of Kenya, and Article 56 of the Municipality of Malindi Charter; it follows therefore that the provisions of Article 37 (1) and (2) of the Municipality of Malindi Charter are invalid and of no legal consequence.

The appointment of a substantive Municipal Manager is provided for in Section 29 of the Urban Areas and Cities Act, Cap 275 of the Laws of Kenya and Article 32 of the Municipality of Malindi Charter.

The Municipality of Malindi currently has a substantive Municipal Manager who was appointed by the Kilifi County Public Service Board after a competitive process.

Committee Observations

The Committee observed that the management clarified that the appointment of a Municipal Manager that is referred to within the query was actually for an acting Municipal manager. Further, a substantive Municipal Manager was later appointed through a competitive process.

Committee Recommendations

The Committee recommends that the query be marked as resolved.

2. Irregular Engagement of Casual Workers

The statement of financial performance and Note 4 to the financial statements reflect expenditure on staff costs amount of Kshs. 51,486,497, being salaries and wages for casual and contractual staff who were received from the Department of environment and Natural Resources Management. However, no approval of the County Public Service Board was provided for audit review contrary to the County Human Resource Manual, 2013 Part B.16 (1) that provides that casual workers shall be engaged only on urgent short-term tasks with the approval of the County Public Service Board. Further, the casuals were engaged for periods of more than three (3) months, contrary to Section 37(1) of the Employment Act, 2007.

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

Management Response

The management was in agreement with the Auditor General's observations.

In accordance with the provisions of Section 75 of the County Governments Act, Cap 265 of the Laws of Kenya, on action on irregularity of process, the Kilifi County Public Service Board has reviewed and vetted all casual employees within the County departments, and contractual letters have been issued accordingly. Additionally, all casual employees within the Municipalities of Malindi and Kilifi have undergone a vetting process, with the objective of transitioning them to term contracts

Committee Observations

The Committee observed that the management of the municipality engaged casual workers for more than three (3) months without a contract contrary to section 37 (1) of Employment Act, 2007. However, the Kilifi County Public Service Board later issued contracts to the workers to mitigate the matter.

Committee Recommendations

The Committee recommends that the Board of Directors and the Managing Director ensure that the Municipality complies with the provisions of section 37 (1) of Employment Act, Cap.226 failure to which section 87 of the Employment Act on penalties for offences shall apply.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Staff Under-Establishment

The statement of financial performance and Note 9 to the financial statements reflects expenditure on staff costs amount of Kshs.51,486,497. However, the Municipality's staff establishment indicated that out of the three hundred and ninety-five (395) job positions, two hundred and twenty-five (225) positions had been substantially filled, with eleven (11) positions being either secondments or deployments from the County Executive departments resulting to staff shortage of 170.

In the circumstances, the Municipality may not meet its mandate as envisaged.

Management Response

We are in agreement with the Auditor General's observations.

At the time of audit, only 10 functions had been delegated and therefore the Municipality met all its obligations according to the functions transferred and the staff available. The other functions were handled by the County Departments. The staff establishment reflects all 17 functions outlined in the Municipal Charter. However, the County Executive has now delegated all the 17 functions, and the Kilifi County Public Service Board has commenced the recruitment process to fill some the vacant positions.

Committee Observations

The Committee observed that the Municipality had a staff shortage of 170 employees during the period under review. The Kilifi County Public Service Board commenced the recruitment process to fill some the vacant positions.

Committee Recommendations

The Committee recommends that the Auditor-General keeps this matter in view in the subsequent audit cycle.

CHAPTER THIRTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF MUMIAS FOR THE FINANCIAL YEAR 2023/2024

The Governor of Kakamega County, Hon. FCPA Fernandes Barasa, OGW, appeared before the Committee on Tuesday, 25th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Mumias for the Financial Year 2023/2024. He was accompanied by –

- | | |
|----------------------------|-----------------------------|
| 1. Peninah Mukabane | - CECM- Water & Environment |
| 2. Vivanne Mmbaka Komwonyo | -County Attorney |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified opinion** on the financial statements of the Municipality of Mumias for the period under review on the following basis;-

1. Inaccuracy of Current Assets Balance.

The statement of financial performance and Note 11 to the financial statements reflect an amount of Kshs.3, 514,400 in respect of transfer to other Government entities for the current and comparative financial years respectively. The comparative amount relates to a transfer to the Ministry of Lands. During the year under review the Ministry made a partial refund of Kshs.1, 194,559.30 leaving a balance of Kshs.2, 319,841 as outstanding.

However, Management has not recognized the outstanding balance of Kshs.2, 319,841 as a receivable in the financial statements.

In the circumstances, the accuracy and completeness of the current assets balance of Kshs.1, 425,411 could not be confirmed.

Management Response

Response on why the balance of Kshs.2, 319,841 was not reported as a receivable in the financial statements.

The Kshs.3, 514,400 was transferred to Ministry of lands and was to be refunded to Mumias Municipality bank account. During the year under review Ministry of lands refunded Kshs.1, 194,559.30 and the balance of Kshs.2, 319,841 was used to pay utilities for Mumias Municipality at the Ministry level, therefore this amount could not be refunded to the Municipality bank account.

Since this amount was directly expensed at the Ministry on behalf of the Municipality, it was not considered as a receivable hence could not be reported in the statement of financial position as a receivable under Current Assets.

Management concludes that the figure of current assets of Kshs.1, 425,411 as reported in the statement of financial position is correct.

Committee Observations

The Committee noted that the management had not recognized the outstanding balance of Kshs.2, 319,841 as a receivable in the financial statements.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and
- iv. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements

2. Unconfirmed Cash Flow Generated from Operating Activities.

The statement of cash flows reflects net cash flows from operating activities amounting to Kshs.21, 176,147 and as disclosed in Note 15 to the financial statements. The disclosure Notes reflects an increase in payables from exchange transacts by an amount of Ksh.1, 560,021 which differs with Note 14 to the financial statements which indicates an increase in payables by Ksh.8, 952,716. This results in a variance of Ksh.7, 392,695 that has not been explained or reconciled.

In the circumstances, the accuracy and completeness of cash flow generated from operations amounting to Kshs.21, 176,147 could not be confirmed.

Management Response

Explanation of variance of Ksh.7, 392,695

The total amount of payables was Kshs.8,952,716 as reflected in the audited financial statements note number 14. This amount was expensed under development and recurrent of Kshs.7,392,695 and Kshs.1,560,021 respectively. The payables figure of Kshs.7, 392,695 for development was captured under Property Plant Equipment (PPE) since it is a capital expense which did not directly affect the cash flow statement. The Kshs.1,560,021 was expensed under recurrent which was included under use of goods and services expenses note number 7 and in turn affected the cash flow figure for use of goods and services.

Management has provided schedule of payables of Kshs.1,560,021 for recurrent expenditure and Kshs.7,392,695 for development expenditure for your review.

Committee Observations

The Committee noted that there was an unexplained variance of Ksh.7, 392,695 in the statement of cash flows showing Kshs.21, 176,147 and Note 14 to the financial statements which indicates an increase in payables by Ksh.8, 952,716.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and
- iv. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in

technology to enhance efficiency and improve the accuracy of financial statements.

3. Unconfirmed Transfers from the County Government.

The statement of financial performance reflects transfers from the County Government amounting to Kshs.78, 177,563 and as disclosed in Note 6 to the financial statements, which includes transfers from County Government-recurrent amounting Kshs.11, 942,300. However, the financial statements of County Executive of Kakamega reflects a corresponding transfer amounting to Kshs.13, 136,859, resulting to unexplained variance of Kshs.1, 194,559.

In the circumstances, the accuracy and completeness of transfers from County Government-recurrent amounting to Kshs.11, 942,300 could not be confirmed.

Management Response

Explanation of the variance of Kshs.1, 194,559

The Kshs.1,194,559 was reported under statement of changes in Net Assets note number 16 in the audited financial statement under line item - funds received during the year. This amount was meant for capital projects that is why it was recognized in the statement of Net changes of Assets and not the statement of financial performance.

Management has provided schedule of Kshs.2, 336,459 (i.e 1,194,559 and 1,141,900) as reflected in the statement of changes in net assets for your review.

Committee Observations

The Committee noted that there was an unexplained variance of Kshs.1, 194,559 where in Note 6 to the financial statements includes transfers from County Government-recurrent amounting Kshs.11, 942,300 and the financial statements of County Executive of Kakamega reflects Kshs.13, 136,859.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in accordance with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;**

- ii. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties and offences shall apply;
- iii. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties; and
- iv. The Accounting Officer enhance the capacity of in-post officers preparing financial statements to comply with the requirements of the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements

Emphasis of Matter

1. Budgetary Control and performance.

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on comparable basis of Kshs.108,266,070 and Kshs.78,177,563 respectively, resulting to under-funding of Kshs.30,088,507 or 28% of the budget.

Similarly, the Municipality expended Kshs.100, 927,289 against an unbalanced budget of Kshs.127, 852,291 resulting to underperformance of Kshs.26, 925,002 or 21% of the budget.

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

Management Response

Under-funding of Kshs.30, 088,507 or 28%

The underfunding was as a result of the inability by the County Government of Kakamega to transfer funds totaling to Ksh.30, 088,507 to Mumias Municipality due to delayed exchequer release by the National Treasury.

Explanation of the unbalanced budget of Kshs.108, 266,070 against Kshs.127, 852,291. Mumias Municipality had a budget of Kshs. 108, 266,070 for FY 2023/2024. However the difference of Kshs 19,586,221 was depreciation which was captured in the statement of comparison of budget and actual amounts. The depreciation amount is a non-cash item which is not provided for in the budget.

Underperformance of Kshs.26, 925,002 or 21%

The underperformance resulted from non-disbursement of funds from County Executive to Municipality due to late disbursement of exchequer from the National Treasury.

Committee Observations

The Committee noted that there was an under-funding of Kshs.30,088,507 or 28% of the budget and underperformance of Kshs.26, 925,002 or 21% of the budget.

Committee Recommendations

The Committee recommends that—

- i. **The Accounting Officer should ensure strict compliance with section 149(2) (h) and (i) of the Public Finance Management Act, Cap. 412A and the standards prescribed by the Public Sector Accounting Standards Board under IPSAS 24 on the presentation of budget information in the financial statements for an entity that prepares their financial statements under the accrual basis of accounting, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply; and**
- ii. **The Accounting Officer should comply with regulation 42(1) (b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.**

2. Non-Collection of Own Generated Revenue.

The statement of financial performance indicates that the Municipality was financed solely through revenue allocated by the County Government. Section 9 (3)(c) of the Urban Areas and Cities Act, 2011 requires that Municipality status be conferred after satisfying criteria which include demonstrable revenue collection or revenue collection potential. However, it is probable that the conferment of Municipal status may have been made to Mumias Municipality without satisfying criterion of demonstrable revenue collection or revenue collection potential.

In the circumstances, the Municipality may not achieve its objectives and goals as outlined in the Charter.

Management Response

Mumias Municipality revenue collection potential is well demonstrated in the Kakamega County revenue Agency plan where municipalities have been given mandates and targets to collect revenues within their jurisdiction. Kakamega County Revenue Agency has seconded staff to Mumias Municipality for revenue collection and are supervised by the Municipal Manager.

Committee Observations

The Committee noted that the Municipality was financed solely through revenue allocated by the County Government.

Committee Recommendations

The Committee recommends that the Municipality should strictly adhere to provisions of Section 9(3) of the Urban Areas and Cities Act, 2011, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

Unresolved Prior Year Matters.

In the audit of the previous year, several issues were reported under the Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or given reasons for the delay in resolving the issues.

Management Response

Management has implemented most of the issues that were raised in the prior year audit after considering recommendations made by Public Investment and Special Funds Committee of the Senate.

Management has provided a summary schedule of prior year audit issues indicating the status of resolutions.

Committee Observations

The Committee observed that the Municipality had not resolved the issues raised in the previous year's audit.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

Basis for Conclusion

1. Lack of Operational Autonomy for Mumias Municipality.

During the year under review, it was observed that only office operations activities were carried out by the Municipality Board while project implementation was carried out by the County Executive through the Department of Lands, Housing, Urban Areas Development and Physical Planning. This was contrary to Section 21(1)(a) of the Urban Areas and Cities Act, 2011 which gives Municipalities executive authority as delegated by County Executives.

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

Management Response

County Executive is in the process of granting full autonomy to Mumias Municipality. The following are the steps that have been carried out to make sure Mumias Municipality gains its full autonomy.

- (i) Appointment of Municipality Board vide gazette notice number 10369 dated 2/8/2023,
 - (ii) Gazettement of assigned functions through gazette notice no.6226 of 12/5/2023 and allocation of a budget.
 - (iii) Appointment of Municipal manager and designating as accounting officer for the Municipality.
 - (iv) Secondment of key technical staff in key departments within Mumias Municipality
- These measures are aimed at ensuring full autonomy of the Municipality in compliance with Section 21(1)(a) of the Urban Areas and Cities Act, 2011, amended 2019.

Committee Observations

The Committee observed that the operations of the Municipality lacked autonomy which contravention of Section 21(1) (a) of the Urban Areas and Cities Act, 2011.

Committee Recommendations

The committee recommends that the Governor of Kakamega County takes all the necessary steps to ensure the Municipality of Mumias achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, cap.275 and the Auditor-General to keep this matter in view in the subsequent audit cycle.

2. Operating the Municipality without an Approved Budget.

During the year under review, the Municipality operated without an approved budget. Consequently, the source and approval of the amounts reflected in the statement of comparison of budget and actual amounts, including total expenditure for the year of Kshs.100,927,289 could not be confirmed. This was contrary to Section 20(1)(l) of the Urban Areas and Cities Act, 2011 which requires a Board of a Municipality to prepare and submit an annual budget to the relevant County Treasury for consideration and submission to the County Assembly for approval.

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

Management Response

Mumias Municipality's budget was prepared by the Board which in turn submitted to the County Treasury for consolidation through the parent ministry of Lands, Housing, Physical Planning and Urban Development. The budget was then approved by the cabinet and the County Assembly as part of the annual County appropriation bill in line with section 20(1)(l) of the Urban Areas and Cities Act, 2011.

Committee Observations

The Committee noted that the Municipality operated without an approved budget.

Committee Recommendations

The Committee recommends that the Municipality strictly adheres to Section 20(1) (l) of the Urban Areas and Cities Act, 2011, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply.

3. Unlawful Operation of Leased Premises.

The Municipality leased out premises to traders at Mumias Modern Bus Park during the period under review. However, the lease agreements lapsed in February 2024 and have not been renewed to date. No explanation was provided by Management on why the lease agreements to traders were not renewed.

In the circumstances, the traders were operating in the Municipality's premises unlawfully.

Management responses

Management has noted the observation of the auditor and state that the process of renewing leases to traders has started and already the committee has been appointed to review the leases and issue new leases to the traders at Mumias modern bus park. The traders of expired leases are still paying Kiosks rent to the County revenue collection account using the previous lease agreements.

Committee Observations

The Committee noted that the the lease agreements lapsed in February 2024 and have not been renewed to date.

Committee Recommendations

The Committee recommends that the municipality renews the lease agreements within 60 days of the adoption of this report and submit evidence of the same to the Auditor-General for verification.

CHAPTER FOURTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF MWATATE FOR THE FINANCIAL YEAR 2023/2024

The Governor of Taita Taveta County, Hon. Andrew Mwadime, appeared before the Committee on Monday, 10th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Special Municipality of Mwatate for the financial year 2023/2024. The Governor was accompanied by the following officers—

- | | |
|-------------------------|------------------|
| 1. CPA,Mwaro Elijah- | -CECM-Finance |
| 2. Mrs Christina Zighe | -CECM-Lands |
| 3. Mr Mwang'ombe Mwakio | -County Attorney |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Special Municipality of Mwatate for the financial year on the following basis—

1. Unsupported Fixed Assets

The statement of financial position and Note 24 to the financial statements reflects property plant and equipment balance of Kshs.118,145,244. However, the fixed assets register, valuation report, ownership documents and depreciation policy were not provided for audit review. In the circumstances the accuracy and completeness property plant and equipment balance of Kshs 118,145,244 could not be confirmed.

Management Response

The management has noted the audit observation and provided the asset register as at 30th June 2024. The county government is in the process of developing the County depreciation policy which we shall adopt.

Committee Observations

The Committee observed that—

- i. whereas the fixed assets register and ownership documents were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act;
- ii. the management failed to provide a valuation report of the Municipality's assets for audit verification; and
- iii. the County Government is yet to develop a depreciation policy.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle;
- ii. the Auditor-General to undertake physical verification of all assets of the Municipality and provide a status report to the Committee within 60 days from the adoption of this report;
- iii. the Accounting Officer ensures that a valuation of all the Municipality's assets is carried out within sixty (60) days of the adoption of this report; and
- iv. the Governor of Taita Taveta ensures that the process of development of a depreciation policy is completed within sixty (60) days of the adoption of this report.

2. Unsupported Expenditures

Domestic Travels and Subsistence The statement of financial performance and Note 12 to the financial statements reflects use of goods and services of Kshs.1,215,140 which includes expenditure on domestic travel and subsistence amounting to Kshs.699,407. Review of the payment records revealed that amounts of Kshs 128,100, Kshs 100,400 and Kshs 91,800 were paid for staff facilitation of the Council of Governors office, Nairobi, attending a symposium at Kenya school of government, Mombasa campus and staff facilitation for attending Kenyan Urban Support Forum office, Nairobi. However, the expenditure was not supported with; program and attendance registers for the activities, return to work reports and reasons for making payments to a staff on behalf of others.

In the circumstances, the completeness and regularity of domestic travel and subsistence expenses amounting to Kshs 320,300 could not be confirmed.

Management Response

The management has noted the audit observation. The supporting documents were provided. Voucher no. 24 of Kshs 128,100, COG offices, Nairobi.

The management has noted that the payment was made to one member of staff. However, on 18th Nov 2024 the County treasury issued an advisory to that effect, which has been adhered to going forward.

Committee Observations

The Committee observed that—

- i. whereas the program of activities and attendance registers were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act;
- ii. the management failed to provide complete return-to-works reports to support expenditures of Kshs.128,100 and Kshs.100,400 for audit verification.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual amounts in comparable basis of Ksh 2,531,362 and Ksh 2,206,829 respectively, resulting to underfunding of Ksh 324,533, or 13% of the budget. The underfunding affected the planned activities of Municipality and may have impacted negatively on the services delivery to the public.

Management Response

The management has noted the Audit observation, underfunding was due to non-disbursement of funds from the National treasury by closure of financial year.

Committee Observations

The Committee observed that the municipality had an under-funding of Ksh 324,533 or 13% of the budget during the financial year under review due to delayed disbursements.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions

- of section 199 of the Public Finance Management Act on penalties for offences shall apply; and
- ii. **the Governor of Taita Taveta County ensures that operational autonomy and independence of the Municipality of Mwatate is fully actualized in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act to enable the Municipality to raise its own-source revenue.**

2. Prior Year Audit Issues

In the audit report on the previous financial year, several issues were raised under the report on lawfulness and effectiveness in use of public resources. However, the issues remained unresolved as at 30th June, 2024. Further, under the progress on follow up on prior year auditors' recommendations, Annex 1, management did not disclose the status of the issues.

Management Response

1. Own Generated Revenue Not Accounted

For The management has noted the Audit observation and County Government is in the process of implementing the revenue sharing criteria which was proposed in the transfer of functions document. Minutes of meeting to discuss municipality autonomy held on Wednesday 26th February 2025 from 9.00am at CECM public works offices in Voi

2. Irregular Tender Award

The management has noted the Audit observation concerning the irregular tender award and wishes to respond as follows, The advertisement was in line with section 96(2) and 3(b) of the public procurement and asset disposal Act 2015, that requires the procuring entity to advertise in the Government tender portal or two newspapers of countrywide circulation. It is true the advertisement was done through one daily newspaper, but it was also done through Government tender portal since the act states that its either the Government tender portal or two newspapers of countrywide circulation.

Committee Observations

The Committee observed that the municipality had unresolved prior year matters demonstrating the management's lack of action to implement corrective measures.

Committee Recommendations

The Committee recommends that—

- i. **the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of**

- section 199 of the Public Finance Management Act on penalties for offences may apply; and
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Irregular Board Expenses

The statement of financial performance and note 14 to the financial statements reflects board expenses amounting to Kshs.2,666,000. Board members were paid airtime and transport allowances totaling Kshs.376,000 and Kshs. 1,120,000 respectively, capped at a ceiling rate of Kshs. 20,000 irrespective of the declared residence location. This was contrary to the SRC Circular Ref. SRC/TS/CG/3/61/19(38) guiding the remuneration of members of the city/municipality boards and town committees on sitting, accommodation, lunch and transport allowances and payment of transport allowances. The circular requires that the board members be reimbursed at the AA rates subject to a maximum of Kshs. 20,000 per month in the month of the meeting.

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

Management Response

The management has noted the audit observation. The board members were paid the airtime allowances as per their appointment letters that entitled them to Kshs. 4,000 per month per board member. However, going forward the management will be guided by the SRC Circular SRC/TS/CG/3/61/19(38).

Committee Observations

The Committee observed that the board members were paid airtime and transport allowances totaling Kshs.376,000 and Kshs. 1,120,000 respectively contrary to the SRC Circular Ref. SRC/TS/CG/3/61/19(38) which limits this remuneration to a maximum of Kshs. 20,000 per month in the month of the meeting.

Committee Recommendations

The Committee recommends that within sixty (60) days of the adoption of this report, the County Executive Committee Member (CECM) – Finance ensures

recovery of all payments to the Board Members that were contrary to the SRC Circular Ref. SRC/TS/CG/3/61/19(38).

2. Non-Compliance with Board Meetings Requirements

Review of records on board operations of the special Municipality revealed that during the year under review only one full board meeting was held, contrary to sec 23 (1) of the Urban Areas and Cities act, 2011 which requires the board to hold its sittings to transact the business of the board once every three months.

In the circumstances, management was in breach of law.

Management Response

The management has noted the audit observation and states that the board could not achieve the threshold due to inadequate funding.

Committee Observations

The Committee observed that the board of the municipality held only one meeting during the financial year under review, contrary to section 23(1) of the Urban Areas and Cities Act, Cap.275 which requires the board to hold its sittings to transact the business of the board once every three months.

Committee Recommendations

The Committee recommends that—

- i. the Governor of Taita Taveta County takes all the necessary steps to ensure the Municipality of Mwatate achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, cap.275; and**
- ii. the Board of the Municipality ensures strict compliance with the provisions of section 23(1) of the Urban Areas and Cities Act, Cap.275 with regards to board sittings.**

CHAPTER FIFTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF NYAMIRA FOR THE FINANCIAL YEAR 2023/2024

The Governor of Nyamira County, Hon. Amos Nyaribo, appeared before the Committee on Tuesday, 18th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Nyamira for the Financial Year 2023/2024. The Governor was accompanied by the following officers

- | | |
|--------------------|-------------------|
| 1. Jones Omwenga | - CECM-Finance |
| 2. Steven Oboso | -CECM-Lands |
| 3. Dr. Jack Magara | -County Secretary |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **Qualified Opinion** on the financial statements of the Municipality of Nyamira for the financial year on the following basis—

1. Misstatement of Cash and Cash Equivalents

The statement of financial position as disclosed in Note 12 to the financial statements reflects cash and cash equivalents balance of Kshs. 8,435,471 as at 30 June, 2024 which included development UDG balance of Kshs. 4,607,638 and retention account balance of Kshs. 3,826,535. However, Cash books,' bank statements and bank reconciliation statements were not provided for audit review.

Further, retention bank account certificate of bank balance of Kshs. 55,271,944 and financial statements balance of Kshs. 3,826,535 reflected a variance of Kshs. 51,445,409 which was not explained.

In the circumstance, the accuracy and completeness of cash and cash equivalents balance of Kshs. 8,435,471 as at 30 June, 2024 could not be confirmed.

Management response

Management appreciates the auditor's observation that cashbook, bank statement, bank reconciliation and CBK retention bank statement extract was not provided for audit review however, these documents has since been provided.

Further the retention account has overall retention monies for the entire county departments.

Committee Observations

The Committee observed that—

- i. whereas the cash books, bank statements and bank reconciliation statements in support of the development UDG balance of Kshs. 4,607,638 and retention account balance of Kshs. 3,826,535 were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act; and
- ii. the Management clarified that the variance of Kshs. 51,445,409 resulted from all county departments utilizing the same retention account, therefore mitigating the matter.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

2. Unsupported Board Expenses

The statement of financial performance and as disclosed in Note 9 to the financial statements reflects a balance of Kshs. 3,041,600 in respect of Board expenses. However, payment vouchers on board expenses of an amount of Kshs.1,229,000 were not provided audit review. Further, the Board expenses were not supported with documents including Board minutes, Attendance register, Calendar of Board meetings and the Gazette notice of appointment of the Board members.

In the circumstances, the accuracy and completeness of board expenses amounting to Kshs. 3,041,600 could not be confirmed.

Management Response

Management appreciates the auditors' observation that payment vouchers totaling to Kshs. 1,229,000 in respect to Board expense was not provided for audit review however this has since been provided.

Further board expenses lacked supportive documents such as Board minutes, Attendance register, Calendar of Board meetings and the Gazette notice. However, this has since been provided.

Committee Observations

The Committee observed that whereas the payment vouchers, Board minutes, Attendance register, Calendar of Board meetings and the Gazette notice of appointment of the Board members to support the board expenses were provided and verified by the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

3. Understatement of Employee Cost

Included in the statement of financial performance for the year ended 30 June, 2024 is staff cost of Kshs. 9,788,374 as disclosed under Note 8 to the financial statement. A schedule for the expenditure included payment of Wages to casuals from July 2023 to April 2024 and did not include wages for May to June, 2024 amounting to Kshs.661,875 leading to understatement of staff costs by similar amount.

In addition, Management provided payroll records for casuals of an amount of Kshs. 3,784,594.00. Payroll records for the balance of the staff costs of Kshs.6,003,780 were not provided for audit verification. Further, the staff costs for permanent staff attached to the Municipality were not included in the expenditure for the year ended 30 June, 2024.

In the circumstances the accuracy and completeness of staff costs amounting to Kshs. 9,788,374 could not be confirmed.

Management Response

Management appreciates the auditors' observation that casual wages was understated by Kshs. 661,875. This was an error of omission however; the financial statement has since been amended as per the accrual accounting basis.

Payroll records for the balance of the staff costs of Kshs. 6,003,780 was not availed since by the time of audit we did not have a separate payroll for municipality however, this financial year 24/25 from the month of November 2024 the municipality is maintaining its own payroll.

Further management wishes to clarify that the staff costs for permanent staff attached to the Municipality are captured in one common payroll which is maintained by the county executive.

Committee Observations

The Committee observed that—

- i. the Municipality did not maintain its own payroll during the financial year under review and the staff costs for permanent staff attached to the Municipality are captured in the County Executive's payroll, an indication of lack of autonomy of the Municipality; and
- ii. the understated staff costs of Kshs.661,875 were due to an error of omission.

Committee Recommendations

The Committee recommends that—

- i. the Governor of Nyamira County takes all the necessary steps to ensure the Municipality of Nyamira achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, cap.275;
- ii. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iii. the Accounting Officer ensures that a prior year adjustment is carried out in the financial statements of the subsequent financial year to correct the understated staff costs and reflect the Municipality's true financial position. The Auditor-General to provide a status update on the same during the subsequent audit cycle;
- iv. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- v. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;

- vi. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping in line with section 155 of the Public Finance Management Act, Cap.412A and submit a quarterly report to the County Treasury and the Controller of Budget in accordance with section 168(3) of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply; and
- vii. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.

4. Understatement of Trade and Other Payables

The statement of financial position as at 30 June, 2024 reflects trade and other payables of Kshs. 20,905,750 as disclosed in Note 16 to the financial statements. A schedule provided of the payables indicated a balance of Kshs. 17,602,875.01 resulting to a variance of Kshs. 3,302,875 between the records. In addition, the Municipality had not included staff costs for casuals for the month of May and June 2024 amounting to Kshs. 661,875.

The Municipality also owed West Mugirango NG-CDF an amount of Kshs. 2,945,800 for rent for the period 1 July, 2021 to 30 September, 2024. However, the Municipality records reflected payables to West Mugirango NG-CDF balance of Kshs.396 000. The variance of Kshs. 2,549,800 was not explained.

In the circumstances the accuracy and completeness of trade and other payable balance of Kshs.20,905,750 could not be confirmed.

Management response

Management take note of the auditors' observation that staff costs for casuals for the month of May and June 2024 amounting to Kshs. 661,875 was not reflected in the financial statement. This was an error of omission however the financial statements have since been amended.

Management wishes to clarify that a schedule provided for payables was ksh 17,079,216 and not 17,602,875.01 as noted by the auditor, the variance of ksh 3,826,535 represent retention monies.

Further Municipality acknowledge that we owed West Mugirango NG-CDF an amount of Kshs. 2,945,800 for rent for the period 1 July, 2021 to 30 September, 2024. However, we are planning to pay this amount in this financial year 2024/2025.

Committee Observations

The Committee observed that—

- i. the Municipality owed an amount of Kshs. 2,945,800 to West Mugirango NG-CDF which remained outstanding;
- ii. the exclusion of staff costs of Kshs.661,875 from the financial statements were due to an error of omission; and
- iii. the management clarified that the correct payables balance was Kshs. 17,079,216 and that the variance of Kshs. 3,826,535 were retention monies thereby mitigating the matter.

Committee Recommendations

The Committee recommends that—

- i. within 60 days of the adoption of this report, the Governor of Nyamira County should engage the West Mugirango NG-CDF to agree on a payment plan for the outstanding rental dues amounting to Kshs. 2,945,800 and file a report on the same with the Auditor-General for verification. The Auditor-General to provide a status update on the matter in the subsequent audit cycle;
- ii. the Accounting Officer ensures that a prior year adjustment is carried out in the financial statements of the subsequent financial year to correct the understated staff costs and reflect the Municipality's true financial position. The Auditor-General provide a status update on the same during the subsequent audit cycle;
- iii. the Accounting Officer to take appropriate administrative action on responsible officers within the Accounts and Finance department who fail to keep complete financial records in accordance with section 156(1) of the Public Finance Management Act, Cap.412A and in line with their terms and conditions of appointment or employment, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- iv. the Accounting Officer should comply with section 149(2)(b) of the Public Finance Management Act, Cap.412A and section 47(2) of Public Audit Act, Cap.412B in the preparation and management of financial and accounting records, failure to which the provisions of section 62 of the Public Audit Act, Cap.412B and section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply;
- v. the National Treasury should enhance awareness and training on changes made to the accounting standards to all public officers handling financial matters in Counties;

- vi. the Accounting Officer should strengthen internal audit controls and ensure proper record keeping in line with section 155 of the Public Finance Management Act, Cap.412A and submit a quarterly report to the County Treasury and the Controller of Budget in accordance with section 168(3) of the Public Finance Management Act, Cap.412A, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply; and
- vii. the Accounting Officer should enhance the capacity of in-post officers preparing financial statements to comply with the Public Sector Accounting Standards and should further invest in technology to enhance efficiency and improve the accuracy of financial statements.

Emphasis of Matter

1. Budget and Budgetary Control

The statement of comparison of budget and actual amounts for the year ended 30 June, 2024 reflects revenue, general expenditure and Capital expenditure final budgets of Kshs. 124,752,413 Kshs.41,991 ,355 and ksh 72,500,000 respectively. The actual expenditure was Kshs. 56,850,143 on general expenses and Kshs. 54,999,727 on Capital expenditure resulting to Kshs. 14,858,788 or 35% over utilization of general budget and Kshs. 17,500,273 or 25% underutilization of the capital expenditure budget without explanation of the variances in footnotes to the financial statements.

In the circumstances, the over utilization of general budget and underutilization of the capital expenditure budget may have affected the planned activities and programs and may have negatively impacted on service delivery.

Management Response

The management did not provide a response.

Committee Observations

The Committee observed that—

- i. the Municipality had an over-expenditure of Kshs. 14,858,788 or 35% of its general budget during the financial year under review; and
- ii. the Municipality failed to absorb 17,500,273 or 25% of its capital expenditure budget during the financial year under review.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the

provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

Other Matter

1. Unresolved Prior Year Issues

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues nor given any explanation for failure to implement the recommendations in contravention of Section 149 of Public Finance Management Act, 2012 which requires an accounting officers designated for a county government entity to resolve issues emanating from an audit.

Management response

Management take note of the auditor's observation and wish to state that most of the recommendations given by the auditor have been implemented.

Committee Observations

The Committee observed that the management of the Municipality did not take action in resolving the queries raised in the report of the Auditor-General for the financial year 2022/2023.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer should resolve any issues resulting from an audit that remains outstanding as required by section 149(2)(l) of the Public Finance Management Act, Cap. 412A, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply; and**
- ii. the Auditor-General provides a status update on the progress made on the matter in the subsequent audit cycle upon review of the progress report.**

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Unbalanced Budget

The statement of comparison of budget and actual expenditure reflects total final revenue budget of Kshs. 124,752,413. The general expenses budget was Kshs. 56,850,143 and capital expenditure of Kshs. 72,500,000 resulting in total expenditure budget of Kshs. 129,350,143 resulting in unbalanced budget variance of Kshs. 4,597,730. This is contrary to regulation 31 (c) of Public Finance Management (County Government) regulations, 2015 that states budget revenue and expenditure appropriations shall be balanced.

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

Management Response

Management wishes to clarify that the over utilization of general budget and underutilization of capital expenditure was occasioned by provision for depreciation of property plant and equipment and intangible assets which should be reflected as an expense as per the accrual basis of accounting.

Committee Observations

The Committee observed that the Municipality's budget for the financial year under review was unbalanced contrary to regulation 31 (c) of Public Finance Management (County Government) regulations, 2015.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures that the Municipality strictly adheres to the provisions of regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015 which states that budgeted revenue and expenditure appropriation shall be balanced, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

2. Irregular Reallocation of Development Funds

Review of the Second Nyamira County Supplementary Budget Appropriation Act, 2024 revealed sums appropriated by the County Assembly in respect of the Nyamira

Municipality for recurrent expenditure was Kshs. 41,446,498 while development estimates approved was Kshs. 83,305,915. As a result, the Municipality reallocated irregularly an amount of Kshs. 10,805,915 from development to recurrent expenditure contrary to the Public Finance Management Act, 2012, section 154 (1) (b) that limits powers of an Accounting Officer to authorize reallocation of appropriated funds for capital expenditure except to defray other capital expenditure.

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

Management Response

The Management wishes to clarify that, there was no reallocation of funds of ksh 10,805,915. The amount was unspent balance KUSP which was appropriated in development by county assembly.

Committee Observations

The Committee observed that whereas management clarified that there was no reallocation of funds and provided evidence to support the same to the Auditor-General, the submission was done outside the timelines contemplated under the Public Audit Act, Cap.412B and constitutes an offence under section 62(2) of the Act.

Committee Recommendations

The Committee recommends that the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

3. Lack of Training Needs Assessment

The statement of financial performance for the year ended 30 June, 2024 reflects Use of goods and services of Kshs. 20,659,589. Included in this expenditure is Training expenses of Kshs. 2,905,600 as detailed under Note 7 to the financial statements. No evidence was provided to confirm training needs assessment for each staff member was conducted during the year as required by Section 1.3 (1) of the County Public Service Human Resource manual of May 2013 that states training in the County Public Service shall be based on Training Needs Assessment which shall be conducted every two years in each County Department. It is therefore not clear how Management identified those who were to be trained and the areas which they were to be trained on.

In addition, there was no selection criteria on how the trainees were identified for the trainings and the annual training plan was also not presented to support the expenditure on trainings contrary to section 1.3 (2) of the County Public Service Human Resource

manual of May 2013 that states County Departments shall prepare training projections based on Training Needs Assessment to guide the training committees in nominating officers for training

In the circumstances, the propriety of Kshs. 2,905,600 on training for the year could not be confirmed.

Management Response

Management concurs with the auditors' observation that there was lack of training need assessment, however the municipal board had prioritized trainings to officers whose registration and licenses which has mandatory continuous professional development.

Currently Management is committed to ensure that we comply to the County Public Service Human Resource manual of May 2013 that states training in the county public service shall be based on Training Needs Assessment which the municipality will be conducting every two years.

Committee Observations

The Committee observed that—

- i. the management of the Municipality failed to conduct training needs assessment for the Municipality's staff contrary to section 1.3(1) of the County Public Service Human Resource manual of May 2013; and
- ii. the management failed to provide the selection criteria used to identify trainees for the trainings and the annual training plan for audit review.

Committee Recommendations

The Committee recommends that—

- i. the Accounting Officer ensures that the Municipality strictly complies with the provisions of section 1.3(1) and (2) of the County Public Service Human Resource manual of May 2013 with regards to training needs assessments and preparation of training projections; and
- ii. the Accounting Officer should ensure timely submission of documents during the audit process in line with section 9(1)(e) of the Public Audit Act, Cap.412B failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act in the subsequent audit cycle.

4. Weaknesses in Imprest Management

The Statement of Financial Performance for the year ended 30 June, 2024 reflects Use of goods and services amount of Kshs.20,659,589. Included in this expenditure is

Domestic travel and subsistence amount of Kshs. 7,847.600 as detailed under Note 7 to the financial statements. However, an amount of Kshs.1,904, 600 of the domestic travel and subsistence expenditure was incurred by staff members in respect of claims for reimbursement after return to their duty station contrary to Regulation 93(3) of Public Finance Management (County Governments) Regulations, 2015 that states temporary imprest shall be issued mainly in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses. In addition, the Municipality did not maintain an updated imprest register contrary to Regulation 93(4)(c) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the propriety of expenditure on domestic and subsistence allowances of Kshs. 7,847,600 could not be confirmed.

Management Response

Management wish to clarify that municipality maintains imprest register and this has since been provided for your audit review.

Management acknowledge that at the time of audit there were claims for reimbursement to officers, this was occasioned by delays in release of funds from the exchequer, however, moving forward the management shall be issuing temporary imprest to officers in respect of official journey.

Committee Observations

The Committee observed that—

- i. the imprest register provided by the management for audit verification was incomplete; and
- ii. the Municipality reimbursed Kshs. 1,904,600 of travel expenses after staff returned to their duty station, contrary to Public Finance Management (County Governments) Regulations, 2015.

Committee Recommendations

The Committee recommends that the Accounting Officer ensures strict adherence to Regulation 93(1) and (4) (c) of the Public Finance Management (County Governments) Regulations, 2015 in regard to maintenance of an imprest record, failure to which the provisions of section 199 of the Public Finance Management Act, Cap.412A on penalties for offences shall apply.

5. Irregular Engagement of Casual Workers

The Nyamira County Public Service Board engaged forty (40) casual employees who were deployed by the County Public Service Board to Nyamira Municipality. However, records available indicates that the casuals were engaged on a continuous basis for more

than three (3) months contrary to Section 37 of the Employment Act, 2007. There was no evidence of requisition from the user their wages, approvals for the recruitments from the County Public Service Board, advertisements for the respective posts and job interview records were not presented for audit.

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

Management Response

The Management wishes to clarify that, it engages casuals to perform duties like solid waste collection and disposal, such duties are continuous in nature and they comply with employment act sec 37(1) b which stipulated that casual employs performing work which cannot be reasonably be expected to be completed within a period or number of working days amounting in the aggregated to the equivalent of 3 months or more, the contract of service of the casual employee shall be deemed to be one where wages are paid daily. Therefore, the casuals are engaged on the basis of requisition and approval of the county public service board.

Committee Observations

The Committee observed that the Municipality was in compliance with the law.

Committee Recommendations

The Committee recommends that the query be marked as resolved.

6. Lack of Independence of the Municipality

The Municipality of Nyamira was granted Municipal Charter on 24 September, 2018 for operational independence from the County Government of Nyamira. The Urban Areas and Cities Act, 2011, section 9 (3) provides, for conferment of municipal status, a town satisfies among other criteria demonstrating revenue collection or revenue collection potential, demonstrable capacity to generate sufficient revenue to sustain its operations and has the capacity to effectively and efficiently deliver essential services to its residents. However, review of the operations of the Municipality revealed lack of autonomy as detailed below: -

- a. The Municipality's budget was prepared and controlled by the County Executive and there was no budget approval by the Municipality Board.
- b. The Municipality's expenditure was controlled by the County Treasury and did not have independent operations account. Funds accounted as transferred to the municipality from the County Government were expended at the County Executive and no actual transfer took place.
- c. The municipality's payroll is done at the county executive, implying staff are only seconded to the Municipality.
- d. Collection of revenue is done by the County Executive.

- e. Monies allocated by a county assembly for the purposes of the management and service delivery of the board as per section 43 (1) (a) of the Act is not transferred to the Municipality. In the year under review, an amount of Kshs. 41,446,498 was appropriated by the County Assembly for recurrent expenditure and Kshs. 83,305,915 for Development expenditure. The monies were not transferred to the Municipality.

This was in contravention of Section 12(1) of the Urban Areas and Cities Act, 2011, which states that Management of a city and municipality shall be vested in the County Government and administered on its behalf by a Board constituted in accordance with section 13 or 14 of the Act, a Manager appointed pursuant to Section 28 and such other staff or officers as the County public service may determine. Lack of independence of the Municipality was in contravention of section 20 of the Act on functions of the board.

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

Management Response

- a) Management wishes to clarify that the budget is prepared by municipality management approved by the board and forwarded to county executive for inclusion in the county budget before forwarded to county assembly
- b) the county budget includes the municipality budget once approved by the assembly is uploaded into central IFMIS system where payment is done. all payments to Nyamira municipality are approved by the manager municipality as the accounting officer in the IFMIS system
- c) the management appreciate the payroll was maintained by executive but as from November 2024 the municipality of Nyamira started maintaining its own payroll
- d) management take note on auditor's observation that executive was collecting revenue on behalf of municipality board however, currently municipality has taken over collection of revenue within its jurisdiction
- e) Management wishes to clarify that since the municipality operates through IFMIS system then transfer of funds is not possible, for transfer of funds to happen then municipality will operate outside IFMIS system

Committee Observations

The Committee observed that the Municipality lacked autonomy.

Committee Recommendations

The Committee recommends that the Governor of Nyamira County takes all the necessary steps to ensure the Municipality of Nyamira achieves full operational independence by 30th June, 2025 in accordance with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence)

of the Urban Areas and Cities Act, cap.275 and the Auditor General to verify the implementation of this recommendation in the next audit cycle.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Pursuant to section 7(1) of the Public Audit Act, based on procedures performed by the Auditor General, the following matter formed the basis for conclusion that internal controls, risk management and overall governance were not effective –

1. Inadequacies in Internal Audit Function

A review of municipalities internal control, risk and governance revealed that the entity had internal audit department. However, an audit work plan and evidence of execution of the same including internal audit reports were not provided for audit review. Further establishment of audit committee and its implementation of roles and responsibilities could not be confirmed which is contrary to regulations 163(2) and 172(1) of the Public Finance Management (County government) regulations, 2015 on development of internal audit work plan, roles and responsibilities of audit committees respectively.

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

Management Response

Management take note of the auditors' observation that audit work plan and audit report were not provided. This has since been provided for audit review.

Committee Observations

The Committee observed that the management of the Municipality mitigated the query by putting in place an audit work plan which they provided and was verified by the Auditor-General.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

2. Lack of Risk Management policy

During the year under review, Management had not developed a risk management policy and did not carry out risk assessment during the year under review contrary to regulation 158(1) (a-b) 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.

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

Management Response

Management wishes to clarify that Nyamira county has a risk policy in place and the municipality board in a meeting adopted the county risk policy to be applicable to Nyamira municipality.

Committee Observations

The Committee observed that the management of the Municipality mitigated the query by putting in place the risk management policy which they provided and was verified by the Auditor-General.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

3. Lack of an Approved Strategic Plan

Review of Municipality records revealed that Management did not establish a strategic plan. This is contrary to Regulation 30(2) of the Public Finance Management Regulation (County Governments) Regulation, 2015 which, states that all budget proposals shall be supported by the County Government entity's strategic plan.

In the circumstances, Municipality's capacity to effectively manage and align its activities with its long-term goals and objectives could not be confirmed.

Management Response

Management wishes to clarify that municipality has a strategic plan in place.

Committee Observations

The Committee observed that the management of the Municipality mitigated the query by putting in place an approved strategic plan which they provided and was verified by the Auditor-General.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

4. Lack of Information Technology Strategy

A review of internal controls, risk management and governance revealed that the Municipality had not established an Information Communication Technology department, Strategy and IT steering Committee, IT policy, disaster management and recovery policies, business continuity plan and IT continuity plan to ensure smooth running of its operations.

In the circumstances, lack of IT department, strategy, Steering Committee, IT Policy, Disaster Management and recovery policies exposed the Municipality to loss of vital information which could affect the smooth running of its operations.

Management Response

Management wishes to clarify that Nyamira County has an IT policy in place and the municipality board in a meeting adopted the county ICT policy to be applicable in Nyamira Municipality.

Committee Observations

The Committee observed that the management of the Municipality mitigated the query by putting in place an IT policy which they provided and was verified by the Auditor-General.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

5. Performance Review of the Integrated Development Plan

The Nyamira Municipality board did not formulate and implement own integrated development plan as provided under section 20 (1) (c). The Board further did not conduct annual performance monitoring and evaluation of the Integrated Development Plan as required by section 42 of Urban Areas and Cities Act, 2011.

Lack of performance monitoring and measurement will result in ineffective measurement of impact of the development plan hence affecting corrective actions.

Management Response

Management wishes to clarify that Nyamira county conducts joint annual Performance monitoring and evaluation of Integrated Development Plan and the municipality board adopted the same to be applicable to Nyamira municipality.

Committee Observations

The Committee observed that the management of the Municipality mitigated the query by putting in place an Integrated Development plan which they provided and was verified by the Auditor-General.

Committee Recommendations

Noting the mitigation measures taken, the Committee recommends that the query be marked as resolved.

CHAPTER SIXTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF VOI FOR THE FINANCIAL YEAR 2023/2024

The Governor of Taita Taveta County, Hon. Andrew Mwadime, appeared before the Committee on Monday, 10th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Voi for the Financial Year 2023/2024. The Governor was accompanied by the following officers—

- | | |
|-------------------------|------------------|
| 1. CPA,Mwaro Elijah- | -CECM-Finance |
| 2. Mrs Christina Zighe | -CECM-Lands |
| 3. Mr Mwang'ombe Mwakio | -County Attorney |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered an **Unqualified Opinion** on the financial statements of the Municipality of Voi for the financial year on the following basis—

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amount reflects final receipt budget and actual amount on a comparative basis of 2,200,000 and Kshs. 750,000 respectively resulting to income shortfall of Ksh.1, 450,000 or 66% of the budget similarly the fund Management spend Kshs. 706,708 against an approved budget of 2,200,000 resulting to an expenditure of kshs 1,493,293 or 68% of the budget.

The income shortfall and under expenditure may have constrain delivery of service to the public.

Management Response

The management has noted the audit observation. The underfunding and under expenditure was due to delay of disbursement of funds at the closure of the financial year ended June 2024.

Committee Observations

The Committee observed that—

- i. The Municipality had a shortfall of Kshs. 1, 450,000 (66% of the budget) during the financial year under review.
- ii. The municipality failed to absorb Kshs. 1,493,293 or 68% of the budget during the financial year under review due to delay of disbursement of funds.

Committee Recommendations

The Committee recommends that the Accounting Officer should comply with regulation 42(1)(b) of the Public Finance Management (County Government) Regulations, 2015 on exerting budgetary control measures, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences shall apply.

REPORT OF LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Pursuant to Article 229 (6) of the Constitution, based on the audit procedures performed by the Auditor General, the following matters formed the basis for conclusion that public resources were not applied lawfully and in an effective way –

1. Failure to provide Urban Area Integrated Development Plan

Review of records reflects that The Municipality did not have an approved Urban Area Integrated Development Plan contrary to section 9(3) (b) of the Urban Areas and cities Act 2011 (amended in 2019) which states that, ‘a town is eligible for the conferment of municipality state under this Act if satisfy a number of criteria including having an integrated development plan in accordance with this Act.

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

Management Response

The management has noted the audit observation and wish to express that the Urban Areas and Cities Act gives the Municipality Board a period of one year after assuming office to come up with an Integrated Development Plan for the Municipality. During the period of audit review, the Municipality Board had only completed two months in office since they were sworn in into office on 30th April 2024. The Municipality is however in the process of ensuring that the timeline provided in the Urban Areas and Cities Act is adhered to and an Integrated Development Plan for the Municipality of Voi will be in place. The process of having the document in place is at an advanced stage.

Committee Observations

The Committee observed that the Board of the Municipality was in the process of developing an Integrated Development Plan for the Municipality.

Committee Recommendations

The Committee recommends that—

- i. within sixty (60) days of the adoption of this report, the Board of the Municipality ensures the Integrated Development Plan for the Municipality is put in place in line with section 20(1)(c) of the Urban Areas and cities Act, Cap.275; and
- ii. the Auditor-General to monitor the implementation of the above recommendation and provide a status update of the same to the Senate during the subsequent audit cycle.

2. Lack of strategic plan

The statement of comparison of budget and actual amount reflect revenue and expenditure budget of ksh. 2,200,000 respectively. However, management prepared an approved budget of contrary to section 175 (1) of the Public Finance Management Act, 2012 on budget and budgetary process for urban areas and cities which requires an urban area or city to develop a strategic plan based on the integrated development plan that is consistence with the County fiscal strategy paper.

In the circumstance, Management was in breach of law.

Management Response

The management has noted your concern and wish to enlighten that, during the period of the budget making process, the Municipality Board was not yet in place and therefore could not participate in the budget making process. The development of the strategic plan could not precede the development of an Integrated Development Plan. Once the Integrated Development Plan is in place the Municipality will embark on the preparation of the Strategic plan.

Committee Observations

The Committee observed that the Municipality did not have a strategic plan in place during the financial year under review.

Committee Recommendations

The Committee recommends that—

- i. within sixty (60) days of the adoption of this report, the Board of the Municipality ensures that a strategic plan for the Municipality is put in place in line with section 20(1)(b) and (c) of the Urban Areas and cities Act, Cap.275; and
- ii. the Auditor-General to monitor the implementation of the above recommendation and provide a status update of the same to the Senate during the subsequent audit cycle.

CHAPTER SEVENTEEN

REPORT ON THE AUDITED FINANCIAL STATEMENTS MUNICIPALITY OF WOTE FOR THE FINANCIAL YEAR 2023/2024

The Governor of Makueni County, Hon. Mutula Kilonzo Junior CBS, appeared before the Committee on Monday, 17th March, 2025 to respond (under oath) to audit queries raised in the report of the Auditor-General on financial statements for the Municipality of Wote for the Financial Year 2023/2024. He was accompanied by –

- | | |
|--------------------|-------------------------|
| 1. Damini Karoi | -CECM-Finance |
| 2. John Ngumi | -CO, Financial Services |
| 3. Imanow Samid N. | -CO, WKSI |

REPORT ON THE FINANCIAL STATEMENTS

The Auditor-General rendered a **qualified opinion** on the financial statements of the Wote Municipality for the period under review on the following basis-

1.0 Unsupported Expenditure

The statement of financial performance and as disclosed in Note 12 to the financial statements reflect use of goods and services amount of Kshs 47,178,004 which includes other operating expenses totalling Kshs 22,218,844.

1.1 Valuation of Assets

Review of payment vouchers revealed that the operating expenses includes allowances- totalling Kshs 1,596,700 in respect to the Valuation of assets for the Makueni County Fruit Development Management Authority and Makueni Integrated Grain Value Addition Plant. However, management did not provide signed valuation reports for audit review.

Management Response

Wote Municipality in partnership with Ministry of Lands, Public Works, Housing and Urban Development engaged in the Valuation of assets for the Makueni County Fruit Development Management Authority and Makueni Integrated Grain Value Addition Plant. The exercise was done and a draft report prepared. The final signed report will be submitted to the municipality upon payment of fees due to the Ministry. The cost of the valuation had not been determined at the beginning of the Financial Year as per the attached letter from the Ministry of Lands Public Works, Housing& Urban Development since it was to be based on the value of the assets as provided under the valuers Act Cap 552. The municipality had not budgeted nor paid as at the time of audit. The cost has now been factored in the proposed draft supplementary budget 2 in the current financial year.

Committee Observations

The Committee observed that the management did not provide signed valuation reports at the time of audit.

Committee Recommendations

- i. **The Committee recommends that the Municipality pays the valuation fee and acquire the valuation report within 60 days of the adoption of this report. The Auditor-General provide the status update in the subsequent audit cycle.**
- ii. **The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act CAP412B in the subsequent audit cycle.**

2. Engagement of Casuals

Included in the operating expenses is Kshs 17,807,377 for casual wages for market cleaning services and revenue collection at Wote Municipality. However, documents on need assessment to determine the number of casual workers that were to be engaged for cleaning services and approval by the County Public Service Board were not provided for audit review.

In the circumstances, the accuracy of other operating expenses totaling kshs 22,218,844 could not be confirmed.

Management Response

The municipality had prepared a draft Needs Assessment Report at time of audit but had not been tabled and adopted by the board. The report was eventually finalized and was attached. The approval for delegated authority was sought and granted for recruitment of casuals.

Committee Observations

The Committee observed that the documents on need assessment to determine the number of casual workers that were to be engaged for cleaning services and approval by the County Public Service Board were not provided at the time of audit.

Committee Recommendations

- i. The Committee recommends that the board approves the need assessment report for casuals within 30 days from the adoption of this report failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply.
- ii. The Committee recommends that the Accounting Officer ensures that supporting documents are availed to the Auditor during audit as required under section 9(1)(e) of the Public Audit Act, failure to which the Committee shall recommend for their investigation and prosecution in accordance with section 62(2) of the Public Audit Act, 2015 in the subsequent audit cycle.

3. Unconfirmed property, plant and equipment balance

The statement of financial position and as disclosed in Note 24 to the financial statements reflects property, plant and equipment (PPE) balance (cost) of Kshs 13,597,428. Review of the financial records revealed that the Municipality did not have in place an approved depreciation policy.

In the circumstances the accuracy of property plant and equipment balance of ksh 13,597,428 could not be confirmed.

Management Response

The Counties and their entities have been relying on the National asset and liabilities management policy and guidelines which were approved on June 2020 and March 2020 respectively. However, the National Treasury capacity build the Counties to develop their entity specific Asset and liabilities policy in November 2024 and January 2025 as. The Counties were to align their policies through the guidance of a selected team and a draft policy is awaiting adoption by the cabinet.

Committee Observations

The Committee noted that the Municipality did not have in place an approved depreciation policy.

Committee Recommendations

The Committee recommends that —

- i. The Accounting officer should ensure that the Municipality approves and implements a depreciation policy within 60 days from the adoption of this report; and

- ii. **The accounting officer ensures that all property, plant and equipment are subjected to depreciation in accordance to the Public Sector Accounting Standards Board(PSASB) requirements to reflect the true financial position of the municipality and the Auditor-General should keep the matter in view and report to the Committee in the next audit cycle.**

4. Failure to Open a Bank Account

Review of Municipality records revealed that the Municipality had not opened and operated bank account in its name. This contravenes Section 179(1) of the Public Finance Management Act,2012 which requires that an urban area or city to open and maintain a bank account in the name of the Urban Area.

In the circumstances, Management was in breach of law.

Management Response

Wote Municipality was granted Charter in 2018. However, the Municipality could not be operationalized immediately since some preliminary activities like staffing had to be put in place. The Municipality operated under the department of Lands, Urban Planning and Development until 2022 when their functions were transferred to the Municipality. In the Financial Year ending June 2023, Wote Municipality was given an independent budget. The Municipality has since opened independent bank accounts at the Central Bank of Kenya (CBK) to facilitate transfer of funds by County government. The Municipality does not have an Enterprise Resource Planning (ERP) system to support its operations and therefore relies on the County Executive's IFMIS Platform for integrity of accounting. During FY 23/24 all procurement and payment processes were done through the County Executive. In the FY 24/25 the Municipality has allocated Kshs. 3,000,000 towards acquisition of an ERP system for self-reliance in the operations which will necessitate the opening and operationalization of its commercial Bank Accounts. The tender for procurement of the ERP closed on 7 th March 2025 and evaluation commenced on 10 th March 2025.

Committee Observations

The Committee observed that the Municipality did not open and operate a bank account in its name contravening Section 179(1) of the Public Finance Management Act,2012.

Committee Recommendations

- i. **The Committee recommends that the Governor of Makueni County ensures Wote Municipality operational independence is fully actualized**

in line with sections 12 (management independence), 20 (functional independence), 45 and 46 (financial independence) of the Urban Areas and Cities Act, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offences may apply and the Auditor General to verify the implementation of this recommendation in the next audit cycle.

- ii. The Committee recommends that the Municipality opens a bank account in its name and the Auditor-General to keep this matter in view in the subsequent audit cycle, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply.

5. Failure to Prepare Financial Statements

Review of records and systems review revealed that Wote was conferred the status to municipality and granted a charter on 29th June 2018. In addition, the municipality board members were appointed on 30th November 2018 and the reporting template for municipalities reporting was developed in the year 2021/22. However, the municipality did not prepare financial statements for two financial years from 2021/2022 to 2022/2023 this contravenes the requirements of section 164(3) of the public financial management act, 2012 which provides for n preparation of financial statement in the respect of the entity. In the circumstances, Management was in breach of law.

Management Response

Wote Municipality was chartered in July 2018; however, it was not fully established in terms of budget allocation and staffing. Initially, it operated under the Department of

Lands, with its budget allocated as a vote line within the department. Consequently, all municipal expenditures were reported and audited under the Department of Lands.

In the Financial Year 2022/2023, during the first supplementary budget, the Municipality was granted an independent budget.

Committee Observations

The Committee observed that the municipality did not prepare financial statements for two financial years from 2021/2022 to 2022/2023 this contravenes the requirements of section 164(3) of the public financial management act, 2012.

Committee Recommendations

- i. The Committee recommends that the management prepares Wote municipality financial statements for Financial Years 2021/2022 and 2022/2023 and submit the same to the Auditor-General within 60 days from the adoption of this report.**
- ii. The Committee observed that the Municipality should adhere to section 164(3) and (4) of the Public Finance Management Act,2012 and submit financial statements not later than three months after the end of the Financial Year, failure to which the provisions of section 199 of the Public Finance Management Act on penalties for offenses shall apply.**