COUNTY GOVERNMENT OF KITUI

THE COUNTY ASSEMBLY

THIRD ASSEMBLY (THIRD SESSION)

COUNTY PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE

REPORT

ON

THE EXAMINATION OF THE REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE COUNTY EXECUTIVE OF KITUI AND COUNTY ASSEMBLY OF KITUI FOR THE YEAR ENDED 30TH JUNE 2020.

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ABBREVIATIONS

MDAs	Ministries, Departments, Agencies
DANIDA	Danish International Development Agency
MCA	Member of County Assembly
CO	Chief Officer
CoK	Constitution of Kenya
CPIAC	County Public Investments and Accounts Committee
THS	Transformation of Health Services
PSAB	Public Sector Accounting Board
CPSB	County Public Service Board
CECM	County Executive Committee Member
PPADA	Public Procurement and Asset Disposal Act
COK	Constitution of Kenya
FCA	First Clerk Assistant
HR	Hansard Reporter
ODPP	Office of Directorate of Public Prosecution
DCI	Directorate of Criminal Investigation
OAG	Office of Auditor General
PFMA	Public Finance Management Act
IFRS	International Financial Reporting Standards
PAA	Public Audit Act
EACC	Ethics and Anti-corruption Commission
FY	Financial Year

IFMIS	Integrated Financial Management Information System
KAM	Key Audit Matters
ARA	Asset Recovery Agency
CARA	County Allocation of Revenue Act
CASB	County Assembly Service Board

DEFINITION OF TERMS

The following terms are used in this Standard with the meanings specified:

Disclaimer

A disclaimer is when the Auditor is unable to review fully an entity's documentation because there is a substantial amount of information that is missing. The absence of information makes it hard and difficult for the auditor-general to make an opinion. In other words, the auditor feels unable to determine whether the situation is qualified or adverse because the paperwork is not adequate. This is a serious lapse in compliance and should be of concern to oversight bodies. A disclaimer indicates that record keeping is so bad to the extent the auditor cannot give an opinion.

Adverse opinion

An adverse opinion is issued when the Auditor-General is able to review the entity's documentation supplied for audit purposes and the final audit reveals problems that are widespread and pervasive and will require considerable changes to remedy. This is equivalent to scoring a pass in an examination. Oversight institutions are concerned to recommend remedies to address such anomalies and systems.

Qualified opinion

This is as a result of auditor-general finding that some problems that are not widespread or persistent with documentation and information supplied. The auditor received all the information required for audit. However, after review the auditor reveals there are some gaps in adherence and compliance to legal procedures.

Unqualified opinion

This arises when the auditor-general is satisfied with documentation presented for review. It implies that there are no major problems with documentation and information that were presented for assessment and the funds are managed properly.

Accrual basis

means a basis of accounting under which transactions and other events are recognized when they occur (and not only when cash or its equivalent is received or paid). Therefore, the transactions and events are recorded in the accounting records and recognized in the financial statements of the periods to which they relate. The elements recognized under accrual accounting are assets, liabilities, net assets/equity, revenue and expenses.

Cash basis

Refers to a major accounting method that recognizes revenues and expenses at the time cash is received or paid out. This contrasts accrual accounting, which recognizes income at the time the revenue is earned and records expenses when liabilities are incurred regardless of when cash is received or paid. Cash basis is the method used by the Kenya Government.

Assets

Are resources controlled by an entity as a result of past events and from which future economic benefits or service potential are expected to flow to the entity.

Liabilities

Are present obligations of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits or service potential.

Material Omissions or misstatements of items

Are material if they could, individually or collectively, influence the decisions or assessments of users made on the basis of the financial statements.

Materiality

Depends on the nature and size of the omission or misstatement judged in the surrounding circumstances. The nature or size of the item, or a combination of both could be the determining factor.

Net assets/equity

Is the residual interest in the assets of the entity after deducting all its liabilities.

Notes

Contain information in addition to that presented in the statement of financial position, statement of financial performance, statement of changes in net assets/equity and cash flow statement. Notes provide narrative descriptions or disaggregation of items disclosed in those statements and information about items that do not qualify for recognition in those statements.

Revenue

Is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets/equity, other than increases relating to contributions from owners.

Key Audit Matters (KAM)

Those matters that, in the auditor's professional judgment, were of most significance in the audit of the financial statements of the current period. Key audit matters are selected from matters communicated with those charged with governance.

CHAIRPERSON'S FOREWORD

Honourable Speaker, on behalf of the County Public Investments and Accounts Committee (CPIAC), and pursuant to the provision of Standing Order No. 176, it is my pleasant duty and honour to present to the House the report of the Committee on the audited financial statements of the County Government of Kitui for Financial Year 2019/2020.

County Assembly exercises oversight over county revenue and its expenditure through CPIAC, pursuant to Article 185 of the Constitution (2010), in tandem with, Standing Order No. 185, through which CPIAC, derives its mandate.

Oversight of government operations as provided by prevailing legislation is geared towards ensuring accountability and prudence in the exercise of public duty. Nonetheless, oversight function is often misconstrued as adversarial and fault-finding exercise intended to embarrass governments in exercise of delegated power which is a fallacy/misconception.

The Constitution of Kenya (2010) lays a very strong basis for efficient and effective management of public finances as espoused under Article 10, the bill of rights and the principles of public finance. The government had taken bold steps to actualize these stipulations as reflected in the legal framework under the Public Finance Management Act and the County Governments Act (2012).

In executing its function, the Committee as usual, reviewed existing financial frameworks and submissions by the witnesses. It was guided by core constitutional and statutory principles on public finance management. The following were particularly reviewed; relevant articles of the Kenyan

Constitution (2010), the Public Procurement and Asset Disposal Act, (PPADA), 2015 and related regulations, the Public Finance Management Act, 2012 and related regulations and other documents availed by the witnesses with whom the Committee interfaced.

Article 203(3) of the Constitution provides that the equitable share of the revenue raised nationally and allocated to the National Government and County Governments is to be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

Honourable Speaker, the Committee has continued to discharge its constitutional mandate with utmost diligence and objectivity whilst remaining cognizant of the onerous responsibility it owes the people of Kitui County. In discharging this role, the Committee held a total of seven (7) sittings, during which it received both written and oral evidence from Accounting Officers on audit queries raised by the Auditor-General.

Honourable Speaker, I wish to commend, once again and most sincerely, the County Assembly whose financial statements received **Qualified Opinion** from the Auditor-General marking a tremendous improvement in management of government finances. I encourage all other Accounting Officers to emulate this example.

In this report, the Committee has continued to hold individual officers to account for their various acts of omission and/or commission that occasioned the alleged loss of public funds. In a number of instances, the Committee has recommended specific follow-up actions including further investigations by the relevant investigative agencies.

The Committee faced numerous challenges visually: review of massive documentary evidence, late submission of vital evidence and budgetary constraints.

It is my hope that these recommendations will be implemented within the shortest time possible by all those who are concerned and that, in the final analysis, public interest will be safeguarded.

In conclusion, I wish to express my profound gratitude and deep appreciation to the offices of the **Speaker** and **that of the Clerk of the County Assembly**, all the Members of the Committee, staff of the audit service, witnesses and secretariat for their cooperation, hard work and diligence during the relevant period.

Honourable speaker, be it resolved: that this Honourable House adopts the report of the County Public Investments and Accounts Committee on the reports of the auditor general on the accounts of the County Executive of Kitui and County Assembly of Kitui for the financial year 2019-2020 and that the recommendations contained therein be fully implemented by all the concerned entities.

SIGNED ....

HON. GABRIEL MUTUNGA MUNYAO, MCA

CHAIRPERSON, COUNTY PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE.

DATE..14-10-2024...

1.0 INTRODUCTION

1.1 Establishment of the committee

The County Public Investments and Accounts Committee was established on 31st October, 2022, pursuant to Standing Order No.185.

1.2 Responsibility and function

The Committee is established pursuant to the provisions of Standing Order No. 185, which mandates it, inter alia, to: -

- **Examine the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit".**
- **Examine the reports, accounts and workings of the county public investments; and**
- **Examine, in the context of the autonomy and efficiency of the county public investments, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.**

1.3 Guiding principles

In the execution of its mandate afore-stated, CPIAC is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include:

Constitutional Principles on Public Finance

Article 201 enacts fundamental principles that "…shall guide all aspects of public finance in the Republic…"

The principles are:

a) There shall be openness and accountability, including public participation in financial matters;

b) The public finance system shall promote an equitable society, and in particular—

   i. The burden of taxation shall be shared fairly;

   ii. Revenue raised nationally shall be shared equitably among national and county Governments; and

   iii. Expenditure shall promote the equitable development of the country, including by making special provision for marginalized groups and areas;

c) The burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;

d) Public money shall be used in a prudent and responsible way; and;

e) Financial management shall be responsible, and fiscal reporting shall be clear.

Honourable Speaker, CPIAC regards highly these principles and has been guided by them in the entire process that has culminated in this Report.

Direct Personal Liability

Article 226(5) of the Constitution provides that: -

"If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not".

CPIAC considers this Constitutional provision as the basis for holding each individual Accounting Officer and other Public Officers directly and personally liable for any loss of public funds under their watch.

The Committee has and will continue to invoke this provision in its recommendations to hold those responsible personally accountable. This is also intended to serve as a deterrent measure.

Obligations of Accounting Officers

Section 149 (1) of the Public Finance Management Act, 2012 provides, inter alia, that:

"An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized and effective, efficient, economical and transparent."

This provision obligates all accounting officers to appear before the County Assembly's CPIAC to respond to audit queries in their respective Ministries/Departments.

And Section 156 (1) of the same PFMA stipulates that: "If an Accounting Officer reasonably believes that a public officer employed by a county government entity has engaged in improper conduct in relation to the resources of the entity, the accounting officer shall: -

a) Take appropriate measures to discipline the public officer in accordance with regulations; or
b) Refer the matter to be dealt in terms of statutory and other conditions of employment applicable to that public officer."

CPIAC strongly holds the view that these provisions of the law were intended to be fully applied to give effect to the high principles in Article 201 of the Constitution stated hereinabove, to ensure prudent and responsible use of public funds.

The Committee has, accordingly, applied these provisions to recommend diverse disciplinary actions, investigations and surcharging of various persons found to bear responsibility for breaches of the law and/or responsible for the loss or wastage of public funds.

1.4 Membership

Honourable Speaker, As currently constituted, the Committee consists of the following Members;

1. Hon. Gabriel Mutunga Munyao -Chairperson
2. Hon. David Masaku Munyau -Vice Chairperson
3. Hon. Godfrey Muthengi Ndagara -Member
4. Hon. Jeremiah Musee Mutua -Member
5. Hon. Paul Maluki -Member

1.5 Staff

Mr. Speaker, the Committee was served by a Secretariat, comprising of Jacob Kimanzi (FCA) Joseph Kimote (FCA) and Douglas K. Mutua (HR) who provided the Committee with technical support

1.6 The Auditor General's office

Honourable Speaker, the following staff of the Audit Service provided technical assistance to the Committee during the course of the hearings:

1) Charles Kinuthia -Deputy Director of Audit (OAG).
2) Michael Kang'ethe -Principal Auditor (OAG).

3) Evans Ondari -Manager (OAG)

2.0 GENERAL OBSERVATIONS AND RECOMMENDATIONS

2.1 Pending Bills

The reported pending bills amount for the year ended 30 June 2020 amounted to Kshs.1,655,920,402 with some bills dating as far back to 2014. However, this was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations that states:

"Debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations".

These delayed payments for goods and services procured by the County Government Ministries, Departments and Agencies (MDAs) could have led to the deterioration of financial positions, and or collapsing, of businesses and in particular the Small and medium-sized enterprises (SMEs), including businesses owned by women, youth, and persons with disabilities. Failure to settle the bills promptly adversely affects the subsequent year's budgeted programmes as it may lead to a reallocation of funds or non-delivery of critical services.

The committee unanimously observed that:

1) The presence of pending bills is:

- **An indicator of fiscal indiscipline where the budget is not the basis of commitments in the course of the year;**
- **May have adverse effects on the county government's ability to obtain goods and services on credit from suppliers;**

- May distort the planning and procurement and may expose the county government to litigation that will cost huge amounts of money in legal fees and fines that may be imposed by courts of law.

2) Failure to settle bills during the financial year in which they are incurred distorts the financial statements for that year and adversely affects provision for the subsequent year to which they should be charged;
3) Failure to settle bills in time depicts the government in bad light and may result in claims of interest from suppliers causing the government to pay heavily.

Committee recommendations

The Committee recommends that;

1) The CECM for finance should, within three (3) months of tabling and adoption of this report ensure that MDAs prioritize payments of all eligible pending bills as the first charge and report to the County Assembly on quarterly basis.
2) The Office of the Auditor General (OAG) should undertake forensic audit of the county debts and pending bills to ascertain accuracy and credibility of the amounts before any money is paid. The Committee further demands for details from the executive on any payments made to settle debts and evidence on either increments or reductions of the said debts.
3) In addition, the EACC should grill the management with a view to establishing authenticity of the pending bills and fix accountability where malpractices are established.

4) The County assembly should prioritize enactment of a Prompt Payment Bill, providing for prompt payment for the supply of goods, works or services to the government to address this recurring issue once and for all.

(Committee's additional observations and recommendations on this recurring issue are found under paragraph 9 of this report)

2.2 Projects implementation and Stalled/Incomplete Projects

The audit for the FY 2019/2020 revealed that the County Government had numerous unimplemented projects, especially in the field of road infrastructure within the county. The committee further observed with a lot of concern that over eight (8) projects, some of which were started in prior years were completed and others had already stalled hence denying the residents of Kitui the all needed services. This is evidently manifested under paragraphs 16 and 17 in the auditor's county executive report. This casts doubt on value for money for such huge expenditures.

The expenditure incurred for unimplemented, stalled and incomplete projects translates to ineffective use of public resources, as the projects are not achieving their intended purposes and value to the taxpayers.

The Committee recommends that:

1) The CECM for finance should ensure that MDAs with stalled/incomplete projects do not initiate any projects until the completion of the on-going projects. Further, the respective Departmental Committees of the County

Assembly should ensure that stalled/incomplete projects with no legal objections are given priority during budget appropriation; and,

2) The CECM for finance should, within three (3) months of tabling and adoption of this report, undertake a county audit of all stalled/incomplete county government projects with a view to ascertaining their viability and hastening their completion. The report of the stalled/incomplete county government projects should be submitted to the county Assembly for prioritization in appropriation of funds, where applicable.

2.3 Other General Recommendations.

The Committee recommended that The CECM for Finance and Economic Planning should, within two (2) months of tabling and adoption of this report, issue a written reprimand to all the Accounting Officers who;

- Failed to ensure that outstanding imprest due were surrendered in time. This was in contravention of the provisions of the PFM Act 2012 and Regulation 94 (d) of the PFM (County Governments) Regulations 2015;
  The Regulation 94(d) states "An officer holding an imprest shall ensure that the full amount of the imprest can be accounted for at all times in cash, stamps, money at bank and completed payment vouchers".

- Failed to meet the timelines for preparation and submission of financial statements to the Auditor-General. This violated Article 229 (4) of the Constitution and Section 68 (2) (k) of the PFM Act, 2012;

- Submitted unsupported expenditures on various projects. The failure by the MDAs to fully support payments casts doubt on the authenticity of the expenditure reported as incurred.

- Failed to undertake timely bank reconciliation as stipulated in Regulation 90 (1)(2)(3) and (4) of the PFM (County Government) Regulations 2015;

- Whose entities either failed to produce or restricted officers of the Auditor-General from accessing books, records, returns, reports, electronic or otherwise and other supporting documents at the time of audit. This contravened the provisions of Section 9 (1) (e) of the Public Audit Act, 2015;

- Whose entities did not ensure that complete financial and accounting records including support documents are presented to the Auditor-General in time. This is in contravention of the provisions of Article 229 of the Constitution and Section 68(2) of the PFM Act 2012;

Further,

- The issuance of disclaimer of opinion by the Auditor-General is a pointer to a serious material breach of the measures established under the public finance laws to protect public funds as contemplated in Section 94(1) (d) of the PFM Act, 2012.

In that regard the committee recommends that within two (2) months of tabling and adoption of this report, the CECM for Finance and

Economic Planning should take administrative action in line with Section 67 of the PFM Act, 2012 (including revoking the designation as Accounting Officer) on all Accounting Officers whose entities received disclaimer of opinion;

- All public entities should keep comprehensive asset registers to protect public assets. The CECM for Finance and Economic Planning should, within three (3) months of tabling and adoption of this report, issue written reprimand to all the Accounting Officers who failed to prepare and submit an up-to-date register of assets to the County Treasury as stipulated under Regulation 132. (1)(b) of the PFM (County Government) Regulations 2015;

- The CECM for Finance and Economic Planning and Departmental Committees of the County Assembly should ensure that the budgets prepared by the various MDAs including the County Treasury are realistic and adheres to credible budgeting to ensure that the revenue raised is adequate to cover the expenditures so as to reduce the budget deficit which results to pending bills;

- The National Assembly should ensure adequate budgetary allocation to institutions charged with the mandate of fighting corruption and other economic crimes such as the OAG, the EACC, the DCI, ODPP and the Asset Recovery Agency (ARA) in order to enhance their capacity.

- The appointing authority should take a disciplinary action against CECM Treasury and the CO in the same County Ministry for abetting embezzlement of public funds by rogue revenue collectors to the tune

of kshs 12,916,368 and for gross violation of regulation 63 of the Public Finance Management (County Governments) Regulation, 2015.

Honourable Speaker, this report should prompt the relevant investigative agencies, especially the Ethics and Anti- Corruption Commission (EACC), to swiftly swing into action. Where it is found that public funds were embezzled, the culprits should be apprehended and made to pay for their wrongs.

There should be a break with the depressingly familiar pattern where the Auditor-General unearths cases where taxpayers' money may have been stolen, some noise is made about bringing the perpetrators to book, and that is just about it.

Follow-up action by the relevant agencies is often limited if not entirely non-existent.

Corruption takes root and thrives in an environment where culpable public officials aren't held accountable. Therefore, to stop the scourge, bold action must be taken on the basis of the Auditor-General's reports.

The Committee always ponders: what is the purpose of having such an office if its work is just to churn out reports that no one acts on?

3.0 CONSIDERATION OF THE AUDITED ACCOUNTS OF THE COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2019-2020.

The County Executive Committee Member (CECM) for Finance and Economic Planning Hon. Peter Mwikya Kilonzo appeared before the committee on 2nd May, 2024; 29th and 30th July, 2024 to respond (under oath) to audit queries raised in the report of the Auditor-General on Financial Statements of Kitui County Executive for the Financial Year 2019/2020.

He was accompanied by the following officials;

1)	Mr. John Makau	Chief Officer, Finance (under oath also)
2)	Mr. Joel Muyanga	Accountant General
3)	Mr. Samuel Mwangi	Director of Internal Audit
4)	Ms. Joyce Katui	Snr Accountant
5)	Mr. Joseph Kibere	Ag Head of Supply Chain Management

Basis for Disclaimer of Opinion

3.1. Unconfirmed Opening Receipts and Payments Balances

The statement of receipts and payments reflects opening total receipts and payments of Kshs.9,971,765,460 and Kshs.10,402,282,601, respectively resulting to a deficit of Kshs.430,517,141. However, as reported in the previous year, the receipts and payments balances were not supported with receipt counterfoils and payment vouchers. Management had explained that the documents were destroyed during a fire incidence on 21 July 2019 when the County Registry was burnt. The outcome of the investigations was still unknown at the time of concluding the audit.

- Under the circumstances, the accuracy, completeness and validity of the receipts and payments opening balances of Kshs.9,971,765,460 and Kshs.10,402,282,601, respectively could not be confirmed.

Management responses

We acknowledge the auditors' observations that the receipts and payment balances were not supported with counter foils and payment vouchers. The documents were destroyed during a fire incidence on 21st July 2019 when the county registry got burnt. The investigations of the fire incidence have not been concluded to date.

The comparative figures for the financial year 2018-2019 for receipts and payments were Kshs Kshs9,971,765,460 and Kshs10,402,282,601 respectively. The balances brought down Kshs 430,517,141 from 2018-2019 were reconciled with bank statement, which are an external source of information that can verify the receipts as well as payments. The balances carried forward could have been verified by reviewing the bank reconciliation statements.

Further, our main accounts are held at the Central Bank of Kenya (CBK) where all transactions are transmitted electronically. All transactions paid through Central Bank of Kenya are first processed through Integrated Financial Management Information System (IFMIS), which has audit trail for all transactions. All receipts from own source revenue and National Treasury are first received in our County Revenue Fund Account held at the Central Bank of Kenya, before being requested through Controller of Budget.

Further, the CECM for Finance and Economic Planning informed the Committee that they are currently in the process of reconstructing data that was destroyed in a fire. A committee, led by the Chief Officer for Finance and Economic Planning, has been formed to oversee this task.

The Chief Officer explained that the reconstruction is ongoing and involves coordination with external stakeholders, such as suppliers. They are working on reestablishing the accounts and ledgers to track suppliers who provided goods and services during the affected period.

The Accountant General reported that efforts are being made to analyse various payments and the corresponding banks to identify the merchants who were paid. This analysis aims to help reconstruct the payment vouchers that were also destroyed.

Additionally, the CECM noted that they have received information from the Central Bank and IFIMS regarding the transactions.

Committee observations

The Committee;

i. *Does not rule out foul play in the mysterious fire incident which gutted the county finance offices on the night of 21 July, 2019 as it occurred just when the Ethics and Anti-Corruption Commission (EACC) detectives were set to investigate alleged abuse of public funds by unscrupulous county officials.*

ii. *Is infuriated that the fire occurred slightly over a year since another one gutted down the county Sports, Culture and Tourism offices on the night of February 25th, 2018 destroying property worth millions of shillings.*

iii. *Deeply regrets that the Directorate of Criminal Investigations (DCI) did secure the scene at the time/did collect fire and arson* scene evidence yet police are yet to make public their findings and that nobody was arrested or prosecuted over the arson attacks three years down the line.

iv. Is remorseful for the bizarre situation of the missing documents which hampered proper questioning of the witnesses and made it difficult to detect if there were fraudulent activities regarding the payments totaling to Kshs.10, 402,282,601.

Further, the Committee understands that;

v. The fire brigade was stationed about 100m from the fire scene yet nothing was done to salvage documents from the affected offices. There is possibility that the incident was a cover-up attempt.

vi. Actions taken at the outset of an investigation at a fire and arson scene can play a pivotal role in the resolution of a case. Careful, thorough investigation is key to ensuring that potential physical evidence is not tainted or destroyed or potential witnesses overlooked.

vii. The County Assembly did pass a Motion urging the EACC, Directorate of Criminal Investigation (DCI) and Director of Public Prosecution (DPP) to investigate high-ranking county officials and their hang-outs named in the report by the Ad-Hoc Committee established by the Assembly to investigate the cause of the inferno but unfortunately no breakthrough had been made to date.

viii. Based on the findings by the Committee, it is clear that the county government has inadequate capacity for fire disaster mitigation, preparedness, contingency plans thus hindering seamless operations. Further, Fire engines are rarely serviced and their spare parts are not readily available; most fire engines are therefore nonfunctional.

ix. Legislative support was also lacking given that the county government has no fire disaster management policy or legislation; the existing bylaws are largely to facilitate enforcement of fire safety. This basically means that there is no proper legislative framework for fire disaster management.

Committee recommendations

The committee recommends that;

i. The fire brigade should be empowered to become a fully-fledged autonomous department for effective operations. It should be empowered to enhance its abilities and capabilities; as well as given authority and autonomy to manage fire disasters effectively without undue political interference as was the situation then.

ii. The county government should formulate policy and guidelines which shall form a basis for systematic, comprehensive and holistic approach to fire disaster management by enabling establishment of structures and systems, development of strategies and management mechanisms for fire disaster management.

iii. The county government should undertake fire hazard, risk and vulnerability assessment of the county to identify fire hazards and devise mitigation strategies as well as determine fire safety measures and management policies. To achieve this, the committee recommends fire hazard mapping using GIS based *tools. This will highlight vulnerable areas as well as facilitate classification of areas according to the level of risk.*

iv. *The County Government should undertake proper arrangement in terms of putting in place a disaster management recovery system and an off-site back-up. Data at government offices is backed up daily, weekly and monthly on to external hard drives and should not be kept in the same room and building as the server. Also, prepare regular back-ups of operational and financial records in a data storage back-up server or any other safe mode.*

v. *Strongly recommends that the EACC and DCI should revisit the matter and reconstruct / patch up all the evidence collected during the incident with a view to not only prosecute the arsonists responsible but also unearth the motive for the mysterious fires and prosecute the persons ultimately responsible for them. Forensic reconstruction of accounting books and records will help the investigative agencies in this endeavor.*

3.2. Variances Between Financial Statements and IFMIS Balances

The following balances reflected in the financial statements for the year ended 30 June 2020 were at variance with the Integrated Financial Management Information System (IFMIS) trial balance as summarized below:

Component	Financial Statements Balance (Kshs)	IFMIS Trial Balance (Kshs)	Variance (Kshs)
Exchequer Releases	8,872,917,771	34,200	8,872,883,571

Proceeds from Domestic and Foreign Grants	8,455,642	0	8,455,642
County Generated Receipts	408,285,164	0	408,285,164
Compensation of Employees	4,193,011,541	4,301,776,703	(108,765,162)
Use of Goods and Services	1,782,897,070	1,653,473,417	129,423,653
Subsidies	81,274,567	81,288,050	(13,483)
Transfers tother Government Units	876,406,892	814,550,751	61,856,141
Other Grants and Transfers	709,137,655	42,635,250	657,502,405
Acquisition of Assets	2,272,008,661	2,219,708,540	52,300,121
Other Payments	100,000	1,065,000	(965,000)
Bank Balances	1,010,705,464	(5,408,586,185)	6,419,291,649
Cash Balances	1,085,538	(26,677,801,381)	26,678,886,919
Accounts Receivables-Outstanding Imprest &Clearance Accounts	5,552,900	185,835,752	(180,282,852)
Accounts Payable	198,686,201	13,933,997,693	(13,735,311,492)
Fund Balance B/F	778,681,155	(36,532,722,517	37,311,403,672

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

Management responses

It is true that there are variances between the financial statements and IFMIS Trial Balances. The variances are as a result of;

a) County revenues: -Exchequer Releases, Proceeds from Domestic and Foreign Grants and County Generated Receipts were not captured in the IFMIS as the revenue module was not activated at the time reporting.

b) Funds transferred to county entities - hospitals; - expenditure incurred by hospitals are done outside the IFMIS since they are not on IFMIS but the financial statements prepared by county executive were consolidated with that of the hospitals since they were not reporting entities.

c) Donor funds which are budgeted on IFMIS system but transferred to commercial banks for expenditure outside the system. Some donors require that Special Purpose Accounts (SPA) be opened in the Central Bank of Kenya (CBK) and in commercial banks to facilitate funds being transferred from County Revenue Fund Account to special purpose account held at CBK, then to SPA held at a commercial bank to facilitate project implementation even when IFMIS is not running.

d) The auto-reconciliation in the IFMIS was not activated leading to big discrepancies between reported cash and bank balances in financial statements and IFMIS.

e) The County Treasury in consultation with National Treasury IFMIS Department in reconciling balances and capacity building County staff on auto reconciliations.

Further, the Chief Officer for Finance informed the Committee that IFMIS is managed by the National Treasury, which means they occasionally lack direct control over it. The Accountant General updated the Committee on their efforts to reconcile all IFMIS data, beginning with the fiscal year 2013-2014.

Committee observations

i. *Noting with conviction why accounting systems need strong internal controls, the Committee stresses that the accuracy of the financial statements and IFMIS is a prime responsibility of the County Government.*
ii. *The Committee appreciates that variances do occur in the IFMIS systems but reckons that it is the user's responsibility to clear outstanding errors in IFMIS systems through regular auto-reconciliations.*

Committee recommendations

The committee recommends that;

i. *The County management should ensure that the IFMIS reports produced are the true records.*
ii. *The County should constantly train the staff and have staff commitment to regularly interrogate the system.*

3.3 Own Generated Revenue

The statement of receipts and payments reflects county own generated receipts of Kshs.408,285,164 for the year ended 30 June 2020. However, a review of the County revenue streams revealed that revenue from two (2) streams namely, ballast crusher at Kwa Kilui and cabro processing plant at Manyenyoni youth training centre had not been incorporated in the financial statements. No satisfactory explanation was provided despite the high revenue potential of the streams from the initial investment outlays. Consequently, the accuracy and completeness of county own generated receipts of Kshs.408,285,164 for the year ended 30 June 2020 could not be confirmed.

Management response

We acknowledge that the county government of Kitui invested in two projects, ballast crusher at Kwa Kilui and cabro making machines at Manyenyoni Youth Training Centre. However, during the financial year 2019-2020 the two projects were not operational and did not generate any revenue. The ballast crusher and cabro making machine started generating revenue in the financial year 2020/2021.

Revenue generated from the two streams for the periods 2020/21, 2021/22 were as follows:

Cabro processing Plant: Kshs 5,395,440 (2020/21) Kshs 6,030,092 (2021/22)

Ballast Crusher: Kshs 779,200 (2020/21) Kshs 1,027,100 (2021/22)
Currently the two projects are not operational since July 2022, and are being assessed by a county team working on assets on their sustainability and viability.
Further, the CECM for Finance informed the Committee that the two entities are currently not generating any revenue because they are not operational. They are under assessment to determine their sustainability and viability. Additionally, he informed the Committee that moving forward, the County Government of Kitui will prioritize creating a conducive environment for business rather than competing directly with businesses.

Committee observations

The Committee observes that:

i. *That most of the revenue collected from the two streams at the time could have been misappropriated owing to lack of proper accountability systems;*

ii. *That there were weak revenue collection systems that could have occasioned possible loss of public funds hence there being nothing to show from the newly created two (2) revenue streams*

iii. *Unrealistic revenue projections coupled with poor record keeping led to inaccurate financial statements - Not possible to confirm how much was collected from the two (2) revenue streams.*

iv. *That some revenue collectors' desire to cling on to the status quo and stick to the old soft revenue collection targets might have slowed down the implementation of activities in the newly set up revenue streams.*

Committee recommendations

The committee recommends that:

i. *The County Government should put in place an effective self-regulating internal control system to ensure that all revenue received is recorded and* *accounted for, and all receipt books issued for revenue collection are also accounted for.*

ii. *That all monies received by the County Government of Kitui from various revenue streams should be properly recorded and banked intact. This will have the benefit of ensuring that all monies received is properly accounted for.*

iii. *That the County Government should, as a matter of urgency, embark on maximum monitoring and supervision of revenue collection. This will ensure that all revenue generated is brought to account. In addition, a mechanism to assess the performance of the revenue collectors should be put in place.*

iv. *The management should also carry out an assessment on revenue mobilization drive with a view to creating a database for all own-source revenue streams that are crucial for preparation of realistic budgets.*

3. 4. Compensation of Employees

3.4.1. Unsupported Cost of Temporary Employees

The statement of receipts and payments reflects an expenditure of Kshs.4,193,011,541 under compensation of employees which, as disclosed in Note 11 to the financial statements, includes an amount of Kshs.420,068,878 relating to basic wages of temporary employees. However, supporting documents for the expenditure including authority from the county public service board, appointment letters and copies of the identity cards for the employees were not provided for audit review. Consequently, the accuracy and validity of basic wages of Kshs.420,068,878 for the year ended 30 June 2020 could not be confirmed.

Management response

It is admissible that the documents for authorisation and recruitment of casual employees were not provided at the time of audit. The County government departments identified the need for engagement of casuals and temporary employees and requested for authorisation from the County Public Service Board (CPSB).

The ministries were authorised in writing by the CPSB to recruit casual and temporary employees as per the attached documentations.

Committee observations

The committee observed that;

i. Hiring of the temporary employees fell short of public service commission frame work for short-term employment in the public service.

ii. There was need for the Kitui County Public Service Board (CPSB) to carry out staff audit to tame ballooning wage bill. Kitui CPSB ought to audit the casuals, to weed out ghost workers. The audit should also establish their qualifications and suitability.

Committee recommendations

The committee recommends that:

i. *On short term employment, the County government should always ensure it adheres to terms and conditions, general and specific principles in the existing policies and legislation.*
ii. *Going forward, casuals should be employed by the CPSB. The Kitui CPSB should carry out staff audit to tame ballooning wage bill that is too high and weed out ghost workers. This should involve a head count to establish their qualification and suitability.*

3.4.2 Unsupported Social Security Deductions

The expenditure of Kshs.4,193,011,541 under compensation of employees also includes an amount of Kshs.5,807,118 relating to compulsory national social security schemes contributions. However, the schedule of salary deductions provided for audit revealed that NSSF deductions amounted to Kshs.1,714,645 leading to an unsupported expenditure of Kshs.4,092,473. Consequently, the accuracy and validity of the National Social Security schemes contributions of Kshs.5,807,118 could not be confirmed.

Management responses

We acknowledge that the expenditure for Kshs 5,807,118 was not fully supported.

The amount of Kshs 5,807,118 reported under Compulsory National Social Security Schemes includes payment relating to remittance for Pay As You Earn (PAYE) paid to Paymaster General. This was a misclassification of expenditure, as the expenditure ought to have been posted on the budget item of basic salaries.

Committee observation and recommendation

The committee observed that, upon provision and verification of the required documents to the Auditor general the matter was put to rest.

However, the management should institute strict measures to ensure that all expenditures are supported and proper record keeping systems are put in place.

3.5. Unsupported Use of Goods and Services

The statement of receipts and payments reflects an expenditure of Kshs.1,782,897,070 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs.64,820,474 in respect of printing, advertising, information supplies and services. The latter balance includes an amount of Kshs.1,976,000, which was not supported by any documentation.

Further, the expenditure of Kshs.1,782,897,070 under use of goods and services includes an amount of Kshs.196,388,309 incurred on training expenses. However, an expenditure of Kshs.550,800 on non-pharmaceutical items was misclassified under training. In addition, procurement documents including tender evaluation reports were not provided for audit review.

Under the circumstances, the accuracy, completeness and validity of printing, advertising, information supplies and services cost of Kshs.1,976,000 and training expenses of Kshs.550,800 could not be confirmed.

Management responses

The expenditure of Kshs 1,976,000 relates to payments made to two contractors as shown in the table and documentation has been attached.

Date	Voucher Number	Description	Payee	Amount Kshs

20-Feb- 20	34063	Printing, Advertising - Other	Rozirosh Investments	1,176,000
21-Feb-20	34076	Printing, Advertising - Other	Rbemi Gen Supplies and Contractors Limited	800,000
		Total		**1,976,000**

These payments relate to hire of vehicle during public participation on land adjudication exercise in Mwingi Central subcounty. The item properly charged in printing, advertising publicity and campaigns, which is the item we use to allocate budget for any publicity related activity. This item budget caters for the expenditure on civic education related activities, placing of advertisements in local dailies for any announcement, and all expenditure related to public participation on budgets, county fiscal strategy paper and finance bills.

The expenditure of Kshs.550,800 relates to purchase of training materials under the Ministry of Education, Youth, Training and Skills Development.

Committee observations

The committee observed that:

i. ***The Accounting officer blatantly breached section 104 (1) of the PFM Act, 2012 that requires all receipts and payments to be supported by the appropriate authority and documentation.***

ii. *Lack of the supporting documents for kshs. 1,976,000 cast the propriety of the expenditure in doubt and may have been orchestrated to cover up for malpractices.*

Committee recommendations

The committee recommends that:

i. ***The accounting officer should always ensure that all expenditures are fully supported and accounted for failure of which he/she must be held personally responsible.***
ii. ***The Accounting officer should also ensure that public funds are used prudently and existing laws and regulations should be adhered to in all procurement processes and payments.***
iii. ***Upon adoption of this report by the House, the accounting officer should within 60 days present the missing supporting documents to the OAG for verification and to the Committee as action taken note.***

3.6. Acquisition of Assets

The statement of receipts and payments reflects an expenditure of Kshs.2,272,008,661 under acquisition of assets which, as disclosed in Note 17 to the financial statements, includes an amount of Kshs.209,964,417 relating to construction of buildings. However, an amount of Kshs.57,561,322 in respect of transfers to village polytechnics was wrongly classified as construction of buildings.

Further, the expenditure of Kshs.2,272,008,661 under acquisition of assets also includes an amount of Kshs.212,752,553 relating to research, studies, project preparation, design and supervision. However, the latter balance includes an amount of Kshs.17,565,729 incurred on spare parts, fittings, servicing, and repairs of heavy machinery which should have been charged to repairs and routine maintenance of motor vehicles and other transport equipment budget.

From the foregoing, the accuracy, completeness, and validity of construction of buildings balance of Kshs.57,561,322 and res an amount of Kshs.57,561,322 in respect of transfers to village polytechnics was wrongly classified as construction of buildings research, studies, project preparation, design and supervision balance of Kshs.17,565,729 could not be confirmed.

Management Responses

It is true that the amount of Kshs 57,561,322 in respect of transfers to village polytechnics was wrongly classified as construction of buildings. This amount was a conditional grant from the National Government to support infrastructure development in the vocational training centres. The funds were budgeted under item 3110202, which is construction of buildings.

The county government of Kitui operates machineries for construction of roads, dams and other infrastructures. During budget making, expenditure for maintenance, operators and other related costs for the various projects is included in the cost estimates as way of giving the realistic expenditure incurred towards the project. As a result, the expenditure of Kshs 17,565,729 related to cost of repairs for the heavy machinery.

The table below summarizes these payments.

GPAY	DATE	Payee	ITEM	AMOUNT IN Kshs
34197	05-Mar-20	EMICO Mechanical	3111499	1,375,862.05
34198	05-Mar-20	EMICO Mechanical	3111499	1,471,189.65

34199	05-Mar-20	EMICO Mechanical	3111499	395,068.95
34200	05-Mar-20	EMICO Mechanical	3111499	1,497,724.15
34201	05-Mar-20	EMICO Mechanical	3111499	1,785,672.40
34202	05-Mar-20	EMICO Mechanical	3111499	1,696,241.40
34203	05-Mar-20	EMICO Mechanical	3111499	1,348,541.40
34476	16-Apr-20	EMICO Mechanical	3111499	621,103.45
34477	16-Apr-20	EMICO Mechanical	3111499	389,172.40
34478	16-Apr-20	EMICO Mechanical	3111499	407,844.85
34479	16-Apr-20	EMICO Mechanical	3111499	483,517.25
34487	17-Apr-20	EMICO Mechanical	3111499	1,792,551.70
34488	17-Apr-20	EMICO Mechanical	3111499	1,670,689.65
34649	08-May-20	EMICO Mechanical	3111499	789,155.15
34651	08-May-20	EMICO Mechanical	3111499	413,446.55
34652	08-May-20	EMICO Mechanical	3111499	1,427,948.30
		Total		**17,565,729.30**

Committee observations

The committee:

i. ***Was unpersuaded by the Accounting Officer's response and observed that the propriety of the expenditure totaling to Kshs. 17,565,729.30 could not be confirmed due to lack of supporting documents.***

ii. *Further observed that the misclassification of the Kshs. 57,561,322 in respect of transfers to village polytechnics may have been a deliberate effort aimed at covering up for fraud.*

The Committee recommends that Accounting Officers:

i. *Should institute strict measures to ensure that their ministries and departments have in place proper record keeping systems for accountability purpose.*
ii. *Must ensure strict adherence to the law.*
iii. *Invites the Ethics and Anti- Corruption Commission (EACC) to carry out further investigation into this matter with a view to having appropriate legal action taken against suspects should theft of public of funds be confirmed and to have the lost amounts recovered.*

3.7. Unsupported Expenditure on Projects

3.7.1. Installation of Water Heating Systems at Kitui County Referral Hospital

The County Executive awarded a tender for installation of water heating systems at Kitui County Referral Hospital at a contract sum of Kshs.11,936,080 which was paid in full during the year under review. However, physical verification on 12 November 2020 revealed that water heating systems at maternity wards 3 and 4 were not working. Further, the payment vouchers provided were not supported by the Bill of Quantities, making it difficult to determine the scope of works in the contract.

Management response

It is admissible that at the time of audit, two water heaters installed at the hospital were not working, as indicated by the audit report. Currently, the hot water systems are working after the contractor was called to come and rectify the problem.

The Ministry of Health and Sanitation awarded contracts to two companies to supply and install solar water heating systems at the Kitui Level IV Hospital as follows:

a) M/S Otium Investments Limited Kshs 3,978,693:45 via LPO No. 1489608 and.

b) M/S Dhiria Supplies Limited Kshs 3,978,772,62 via LPO No. 1489607.

The total value of the two contracts was Kshs 7,957,466, and not Kshs 11,936,080 as reported in audit report. The ministry approved payment totalling to Kshs 5,200, 000 to both contractors as follows:

i. M/S Otium Investments Limited Kshs 2,700,000 and;

ii. M/S Dhiria Supplies Limited Kshs 2,500,000, with each contractor being deducted 10% of the value of certificate.

The committee heard from the auditor general that this matter remained unresolved as the accounting officer had not produced documentary evidence regarding the bill of Quantities (BQs) for Dhiria Supplies Limited.

Committee observations

The committee observed that:

i. *The total contract sum was Kshs 7,957,466 and not kshs. 11,936,080 as hitherto stated.*

ii. *The loss of control of financial records creates opportunities for fraud, leads to loss of public funds, and impedes fiscal planning. It makes it difficult if not impossible, to preserve an audit trail of decisions, actions and transactions.*

iii. *There is a possibility that non-availability of the supporting documents (Bill of Quantities (BQs) for Dhiria Supplies Limited) was masterminded to cover up for fraudulent activities.*

Committee recommendations

The committee recommends that:

i. *The Accounting officer should provide the relevant supporting documents for audit inspection; and warns that if such a matter reappears in future audit reports he/she would be held responsible for perjury.*

ii. *The appointing authority should take severe disciplinary action on the accounting officer for the violation of Section 31 (4) of the PAA, 2015 which states that "the accounting officer shall within 14 days from the date of the draft management letter submit a response to the auditor general including remedial actions that have been undertaken to address any qualification in the draft management letter."*

3.7.2. Construction of Medical Store at Kitui County Referral Hospital

During the year under review, an amount of Kshs.2,032,340 was incurred on construction of a medical store at Kitui County Referral Hospital against a contract sum of Kshs.8,749,210 and a completion date was 12 September 2019. A physical inspection in November 2020, revealed that the project was approximately 50% complete. However, the contractor was not on site while the contract period had expired, and no extension processed. Further, progress reports, Bill of Quantities and site minutes were not provided for audit review.

Management response

It is admissible that the Bill of Quantities, progress reports and site minutes were not provided during the audit time. It is also true that at the time of audit, the contract period had expired.

The project start date was 12th September 2019, with a completion date of 12th March 2020. The project stalled at 50% and the contractor abandoned the site. The incurred cost to date is Kshs 4,260,000, while the contract price was Kshs 8,749,210.

The county government is in the process of quantifying the remaining works to prepare a bill of quantities for advertisement and award. An initial budget of Kshs 2,500,000 has been allocated to revive the project in the FY 2023/24.

Committee observations

The Committee observed that no information was provided to the auditors during the audit exercise, and this project and other similar projects remained incomplete beyond the stipulated contractual period. These incomplete projects indicate a disregard for project completion timelines.

Committee recommendations

The Committee recommends that:

- ***The county government should take immediate action to complete all stalled/incomplete projects and provide a status update, including plans for completion, within 60 days upon the adoption of this report.***

- *Proper projects conceptualization, planning, and adequate budgetary provisions should be undertaken to ensure the timely completion of projects.*
- *The Auditor General should always audit outstanding projects with a view to verifying their completion and utilization as per this recommendation.*
- *Contract agreements should include clauses for liquidated damages in cases of non-completion and should be drafted by County Attorney.*
- *All initiated projects should be completed to ensure that the funds invested yield value for money.*
- *Payments for project work should be made only for certified work to prevent financial losses due to incomplete/abandoned projects.*
- *In instances where payment has been made for incomplete work/white elephant project, the contractor and responsible officers should be investigated and prosecuted to recover the lost funds.*

3.7.3. Construction of X-Ray Room at Kauwi Sub County Hospital

During the year under review, an amount Kshs.2,637,670 was paid for the construction of an X-ray room at Kauwi Sub County Hospital. The contract was awarded on 24 May 2019 at a contract sum of Kshs.8,749,210 with an expected completion date of 24 September 2019. Site inspection carried out in November 2020 revealed that the project had stalled at approximately 30% completion level. Further, the contractor had abandoned the site since February 2020 while the contract period had lapsed. In addition, the Bill of Quantities, site handing over minutes, contractors work plan, progress reports and valuation reports from the county works offices were not provided for audit review.

Management response

It is true that the county awarded contract on 24th May 2019 at a contract sum of Kshs.8,749,210 with an expected completion date of 24th September 2019. The project was not completed.

The project stalled at 65% after Roofing, plastering, and installation of doors and windows, and the contractor abandoned the site.

The contract was terminated on 4th January 2021, and the contractor paid all the submitted certificates for works done totalling to Kshs 5,457,540.

The county government is in the process of quantifying the remaining works to prepare a bill of quantities for advertisement and award.

Committee observations and recommendations

The committee reiterates its observations and recommendations under sub-paragraph 7.2 above in respect of credible documents explaining and substantiating the undertakings in this project.

3.7.4. Construction of Medical Ward at Mwingi Level IV Hospital

The County Government paid an amount of Kshs.4,003,120 for the construction of a medical ward at Mwingi Level IV Hospital. The contract was awarded on 2 March 2019 at a contract sum of Kshs.65,532,720 for a period of 18 months. Physical verification in November 2020 revealed the project had stalled at foundation level estimated at 1% of the construction works while the contractor had abandoned the site. Further, the approved Bill of

Quantities, site handing over minutes, progress and valuation report from the county works offices and the contractors work plan were not provided for audit review.

Management response

It is true that the County awarded Contract on 2 March 2019 at a contract sum of Kshs.65,532,720 for a period of 18 months. The contract stalled at 1% after laying of foundation. The contract had not been terminated at the time of audit.

The county government is reviewing all the stalled projects in all the ministries with a view to value the remaining works and prepare new bill of quantities for fresh contracts to complete the projects.

Committee observation and recommendation

The committee restates its observations and recommendations under sub-paragraph 7.2 above in respect of the failure by the Management to submit the tender documents for audit examination and the current status of the project.

3.7.5. Construction of Tuition Block at KMTC Mwingi Hospital

During the year under audit, the County Executive made payments of Kshs.851,382 towards the construction of a tuition block at the Kenya Medical Training College (KMTC) Mwingi Hospital. The contract was awarded on 4 January 2019 at a contract sum of Kshs.17,027,650 for a duration of 9 months. However, physical verification of the project in November 2020 revealed that the project had stalled at foundation level with only 1% of the construction works done. Further, project signage had not been erected at the site and documents relevant to the implementation of the project such as; approved bill of quantities, site handing over minutes, payment certificates, progress and valuation report from the county works officer and the contractors work plan were not provided for audit review.

Under the circumstances, the accuracy, completeness, and validity of the expenditure of Kshs.21,460,592 incurred on the above five (5) projects could not be confirmed.

Management response

We acknowledge auditor's observations that bill of quantities, site handling minutes, payment certificates progress and valuation reports were not provided for review during the audit. The county government is reviewing all the stalled projects in all the ministries with a view to value the remaining works and prepare new bill of quantities for fresh contracts to complete the projects.

Committee observation and Committee recommendation.

The committee reiterates its observations and recommendations under sub-paragraph 7.2 above in respect of the failure by the Management to *submit the tender documents for audit examination and the current status of the project.*

3.8. Budgetary Control and Performance

The summary statement of appropriation-recurrent and development combined reflects final budgeted and actual receipts on comparable basis of Kshs.11,795,248,963 and Kshs.10,719,357,094, respectively resulting in under-collection of Kshs.1,075,891,869 or 9% of the approved budget. The county own generated revenue budget amounted to Kshs.600,000,000 out of which Kshs.408,285,164 was realized resulting to a shortfall Kshs.191,714,735 or 32%.

Further, of the realized revenue amount of Kshs.10,719,357,094, only Kshs.9,914,836,386 was utilized resulting to an under absorption of Kshs.804,520,708 or 8% on the available funds. The underutilization of funds implies that some of the planned programmes and activities for the year were not undertaken which may have impacted negatively on the service delivery for the residents of the County.

Management responses

It is true that revenue collection underperformed the set target of Kshs 600,000,000 by Kshs 191,714,735 or 32%. The collection of revenue in the last quarter of 2019-2020 was affected by COVID-19 pandemic where county government closed most of open-air markets which is a major source of revenue.

The county executive did not absorb all the available funds as at the closure of the year as indicated in the audit report. However, absorption was affected by late release of funds by National Treasury as well as grants from donors. Exchequer disbursement for the month May was received on 24th June 2020, while the June disbursement was received on 5th August 2020 (Kshs

759,410,100), after the closure of financial year. This affected the payments especially development payments creating pending bills.

Committee observations

The committee concurs with audit observation that:

The under collection of Kshs.191,714,735 worth of revenue and under absorption of Kshs.804,520,708 of the budget implies that some of the planned activities for the year under review were not undertaken, thus impacting negatively on service delivery to the residents of Kitui.

The committee noted that the County government had carried out poor budgeting and there was weakness in control of budget performance.

Further, the committee noted that the National Treasury has continued over the recent years to disburse funds to counties late contrary to the approved schedules set out by the County Allocation of Revenue Act (CARA) ofin contravention of Article 219 the Constitution. This breach has led to late release of substantial cash disbursement towards the last weeks to closure of financial years portraying counties as entities that do not have the capacity to absorb monies disbursed to them. This has led to accumulation of huge pending bills and portrays the incorrect position of surplus in Financial Statements.

Committee recommendations

The committee recommended that:

i. *The Cabinet Secretary for National Treasury should strictly adhere to release of funds to county governments as per the senate approved cash disbursement schedule.*

ii. *The County Government should strictly adhere to the budget ceilings for development and recurrent as stipulated by the CARA.*

iii. *The management should ensure enforcing continuous reconsideration of budgets to serve as early warning for possible underspending and to avert financial stress in the course of implementation of budgets.*

Further, the management should;

- *Map out all revenue streams in order to optimize collection.*
- *Automate all revenue collection.*
- *Appoint/designate receivers of revenue pursuant to section 157 of the Public Finance Management Act and provide information to the committee, on the same within 60 days from the adoption of this report.*

3.9. Pending Bills

As disclosed in Note 7.9 on Other Important Disclosures, the County Executive had pending bills totalling Kshs.1,655,920,402 as at 30 June, 2020 as analysed in Annex 2, Annex 3 and Annex 4. Included in the balance are pending accounts payables brought forward from 2018-2019 financial year totalling Kshs.652,034,672, some of which date far back to 2014. Management did not provide an explanation on why the long outstanding bills were not taken as a first charge and prioritized for payments in the year under audit as required by Section 41(2) of the Public Finance Management (County Governments) Regulations, 2015. The Section states that debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer should ensure this is done to the extent possible that the county government does not default on debt obligations.

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

Management response

The amount of Kshs 652,034,672 includes Kshs 608,205,060 million which relate to contracts which were under investigation by Ethics and Anti-Corruption Commission (EACC). The original documents were with EACC and were released back to the County Executive in May 2020. It was not possible to prepare a supplementary budget to incorporate these bills owing to the limited time for the necessary approvals by the County Executive Committee and the County Assembly as the year was coming to an end.

In the financial year 2020/21 and 2021/22, an allocation of **Kshs 283,468,029** was allocated towards the settlement of pending bills for drifts and other works awarded in 2016/2017. These were the contracts under investigation by EACC before May 2020. By the end of June 2022, a total of **Kshs 260,125,221** had been settled, with an outstanding balance of **Kshs 348,079,839** which was included in the 2022-23 budget.

In an effort to address the outstanding pending bills from 2013 to June 2022, H.E. the Governor appointed and gazetted Pending Bills Review Committee on 7th October 2022 vide gazette notice No. 11948 known as Kitui County Pending Bills Review Committee, 2022 to verify pending bills and advise. The Committee cleared eligible pending bills totaling to Kshs 1,431,226,009.65 which were to be paid by the end of September 2023. So far, an amount of **Kshs 797,194,891** has been paid, leaving a balance of Kshs 640,194,178.

Committee observations

The Committee observes that;

1) *The presence of pending bills is an indicator of fiscal indiscipline where the budget is not the basis of commitments in the course of the year, may have adverse effects on the county government's ability to obtain goods and services on credit from suppliers, may distort the planning and procurement and may expose the county government to litigation that will cost huge amounts of money in legal fees and fines that may be imposed by courts of law.*

2) *Failure to settle bills during the financial year in which they are incurred distorts the financial statements for that year and adversely affects provision for the subsequent year to which they should be charged;*

3) *Failure to settle bills in time depicts the government in bad light and may result in claims of interest from suppliers causing the government to pay heavily.*

4) *The Public Finance Management Act and the procurement law provide that no commitment and no tender should be issued without adequate budgetary allocations. Thus, a rise in pending bills is also an indication that the relevant laws are not being followed.*

(Section 53 (8) of the public procurement and disposal act, 2015 states that "an accounting officer shall not commence any procurement

proceedings until satisfied that sufficient funds to meet the obligations of the resulting contract(s) are reflected in approved budget estimates".

5) *From the look of things, the quantum of pending bills could have been much higher than reported on account of the Management's failure to disclose during the audit cycle that the EACC was investigating the pending bills and the amount involved. There is possibility that while recording the pending accounts payable during the relevant period, the county could have overstated the amount with some monies ending up in the pockets of unscrupulous officials. The county government should take administrative responsibility for any financial misconduct.*

6) *The persistent pending bills are killing the entrepreneurial spirit by demotivating contractors for untimely payment of their dues.*

- *Literature shows that persistent increase in pending bills adversely affects the economy in three ways: first, by changing the present discounted value of payment by firms, the existence of pending bills reduces profitability for firms which trade with the government and other firms through a ripple effect.*
- *Second, pending bills worsen liquidity constraints for firms and may either drive them into total bankruptcy, or increase their likelihood of defaulting on loan payment. This in turn reduces the size of the private sector, especially when the liquidity constrained firms shut down and at the same time affect the banking sector by increasing the number of Non-Performing Loans (NPLs).*
- *Third, a higher failure rate of firms may increase the cost of capital due to an increasing risk premium. This makes firms revise the price*

of goods and services upwards to factor in the high cost of capital, ultimately increasing the cost of goods and services both for the government and other economic agents.

Committee recommendations

The Committee recommends that:

1) *The EACC should investigate cases of suspected fraud, embezzlement, theft or misappropriation of public funds amounting to kshs. 211,706,030 paid without clearance from the commission.*

2) *the CECM for finance should, within three (3) months of tabling and adoption of this report, prepare and submit to the County Assembly a status report on all pending bills including action taken on all the accounting officers who incurred pending bills for reasons other than delays in release of exchequer.*

3.10. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as of 30 June 2020. Management has not provided reasons for the delay in resolving the prior year audit issues.

Management response

At the time this audit report, the County Government had not appeared to Senate committee (Public Account and Investment Committee). The county has since responded to matters raised and appeared to the committee on

July 15, 2021. This was in relation to matters raised in the audit of 2018-2019 financial statements.

Committee observation and Committee recommendations

The committee takes note of the explanation by the Accounting Officer but recommends that the management should in future ensure that issues raised by the auditor general are expeditiously addressed as soon as the management letter is received.

3.11. Non-Compliance with Law on Development Expenditure Threshold

The statement of receipts and payments reflects total expenditure of Kshs.9,914,836,386 comprising of recurrent and development expenditure of Kshs.7,144,129,574 and Kshs.2,770,706,813, respectively. However, development expenditure accounted for 28% of the total expenditure which is below the 30% threshold stipulated by Section 25(1) (g) of the Public Finance Management (County Governments) Regulations, 2015.

The Management was, therefore, in breach of the law.

Management response

The audit observation that development expenditure did not meet the threshold set out in the law (30%) is true. The expenditure composition was affected by underperformance of own source revenue of Kshs 191,714,735 as well as delay in receipt of June 2020 disbursement.

The delay in release of funds by the National Government affected mainly development expenditure as most of the projects procured in last quarter were not paid. Also, donor funding for the financial year was delayed, adversely affecting the absorption of development budget in general since all donor funds are budgeted in development.

The COVID - 19 pandemics affected impacted negatively on the implementation of the planned projects and programs due lockdown curtailing the movement of people.

Committee observations

That the:

i. *Committee Castigates the Accounting Officer for flouting the provisions of the Section 25 (1) (g) of the Public Finance Management (County Governments) Regulations 2015 that provides for development expenditure thresholds to be at least 30% of the total expenditure.*
ii. *Committee faults the Accounting Officer for failing to produce any correspondence/documents for verification by the Auditor General at the time of audit.*

Committee recommendations

The committee:

i. *Encourages each Accounting Officer to take time to read and acquaint themselves with the Public Finance Management Act, 2012 and Subsidiary Public Finance Management (County Governments) regulations, 2015 as well as the relevant sections of the Constitution dealing with public finance to get a broader picture of what is key in exercising their mandates to avert frequent violation of extant rules and regulations.*

ii. ***Exhorts the Management to take appropriate action to rectify, remediate or mitigate the consequences of non-compliance with applicable laws and regulations.***

3.12. Failure to Establish an Emergency Fund

The Management incurred an emergency expenditure of Kshs.34,801,661 during the year under review. However, the County Executive did not have an emergency fund in place in contravention of Section 110 of the Public Finance Management Act, 2012 which stipulates that, an emergency fund may be established to finance emergencies from appropriated funds. Consequently, the Management is in breach of the law.

Management response

The county government had not established Emergency Fund at the time of the audit. However, the emergency act was enacted by the County Assembly of Kitui in 2018 but has not been operationalised.

In regard to the expenditure of Kshs 34,801,661, the county government had budgeted for Kshs 135,319,908 under emergency medical expenses in the ministry of health, which was utilised by to procure Personal Protective Equipment during for COVID - 19.

Committee observations

The Committee observed that the County Executive was in violation of Section 110 of the Public Finance Management Act, 2012 that stipulates that emergency fund maybe established to finance emergencies from appropriated funds despite the fact that the County Assembly had enacted the County Emergency Fund Act into a law in 2018.

Committee recommendations

The Committee recommends that:

i. The County Management should move with speed and formulate regulations for approval by County Assembly with a view to operationalizing the Emergency Fund within 90 days after this report is adopted by the House.

ii. The Ethics and Anti-Corruption Commission (EACC) should carry out further investigations into this matter with a view to having appropriate legal action taken against culprits if embezzlement of public funds is established.

3.13. Irregular Payments to Council of Governors

During the year under review, the Management paid an amount of Kshs.2,500,000 to the Council of Governors which was reported under other operating expenses. This is contrary to Section 37 of the Intergovernmental Relations Act, 2012 which provides for funding of operations of the Council of Governors operation by the National Government.

The Management was, therefore, in breach of the law.

Management responses

The budget for the Office of the Governor has a provision for intergovernmental relations vote line. The vote line is meant to cater for payment of issues related to other governments. The Kshs 500,000 paid to the Council of Governors on 2nd October 2019 was meant to cater for legal fee for the case of budget allocation for the Counties during the FY

2018/2019 which was disputed by the National assembly and the Senate. The case was being handled by the supreme court. It was a directive from the council of Governors for all counties to pay Ksh.500,000 each to cater for the legal fee. See the attached letter referenced COG/8/5a Vol.2 from the Council of Governors.

The Kshs 2,000,000 was paid to the Council of Governors was to cater for the registration fee for the Governor, Deputy Governor, Speaker, Clerk and members of the County Assembly (MCAs) for 7th annual devolution conference that was scheduled to take place on 27th to 30th April 2020 at Makueni County. The council of Governors directed all Counties to pay registration fee for the above-mentioned officers. However, the event was cancelled due to emergence of Covid-19 in the Country. See the attached letter from the Council of Governors referenced COG/6/15/1K (39) dated 5th February 2020.

Committee observations

Citing this as a recurrent and cross-cutting issue affecting all the 47 Counties, the Committee observes that:

i. *The COG budget is funded by the National Government. Therefore, payments to the CoG by Counties constitutes illegal expenditure.*
ii. *The operational expenses of COG should be provided for in the annual estimates of the revenue expenditure of the National Government. Hence the unaccounted money was paid contrary to section 37 of the Intergovernmental Relations Act, 2012.*
iii. *The auditor general has raised queries on failure by the Accounting Officer to provide letters from the CoG justifying the payments for the legal fee and registration fee for the Governor, Deputy*

Governor, Speaker, Clerk and members of the County Assembly (MCAs) for 7th annual devolution conference despite being this function funded by the exchequer.

Committee recommendations

The committee recommends that the County Governments should liaise with the National Government with a view to finding a lasting solution on all payments made to the CoG by the Counties without legal backing.

3.14. Unutilized Medical Equipment

The Management procured medical equipment for Kauwi Subcounty hospital at a contract price of Kshs.2,457,000 and for Katulani Sub- County hospital at a cost of Kshs.2,174,500. However, physical verification during the months of October and November 2020 revealed that, although the equipment was delivered in October 2018, they were lying idle in the stores instead of being tested and commissioned for the intended use. Further, Management paid an amount of Kshs.5,780,000 for the supply of laboratory equipment to Kitui County Referral Hospital delivered on 19 November 2018. However, a physical verification in November 2020, revealed that two chemistry analysers had not been commissioned and had not been put to intended use. In the circumstances, it was not possible to confirm whether value for money has been realized on expenditure of medical equipment valued at a total cost of Kshs.10,411,500.

- **Katulani medical equipment**

It is admissible that some of the equipment supplied to Katulani hospital were idle at the time of audit. However, the equipment is now in use.

- **Kauwi medical equipment**

It is admissible that some of the equipment supplied to Kauwi hospital were idle at the time of audit. However, the equipment is now in use.

- **Kitui Hospital**

It is true that two chemistry analysers supplied to the Kitui Hospital had never been tested at the time of audit.

Committee observations

The Committee observed that:

i. *The Accounting Officer blatantly disregarded Section 153(1) of the Public Finance Management Act, 2012 which stipulates that the Accounting Officer for a County Government Entity:*
   - *Is responsible for the management of entity's assets and liabilities; and*
   - *Shall manage those assets in such a way that the County Government entity achieves value for money in acquiring, using or disposing of the Assets.*

ii. *The management denied the residents of Kitui County vital services by way of failing to commission and operationalize the aforementioned equipment's.*

Committee recommendations

The committee recommends that:

i. *The CECM for Finance, Economic Planning and Revenue Management should within 60 days of tabling and adoption of this report issue a written reprimand to all the accounting officers who failed to prepare and submit an up-to-date register of assets to the Ministry as stipulated under regulation 132(1) (b) of the PFM (county Governments), 2015.*

ii. ***The management should move with speed to operationalize all unutilized equipment's within the County Government of Kitui.***

3.15. Irregular Procurement of Water Supply System

The contract for upgrading of water supply reticulation system lot 2 was awarded on 12 April 2019 at a contract sum of Kshs.49,979,575. The contract duration was for a period of six (6) months from 15 April 2019. The Tender Evaluation Committee carried out the preliminary, technical, and financial evaluation of the tenders through the e-procurement system and issued a GOK IFMIS Evaluation Matrix Report. However, only one bidder with a bid price of Kshs.49,999,484 attained threshold mark of 70% to progress to the financial evaluation stage as was stipulated in the evaluation criteria. However, a bidder who had scored a technical score of 55% that was below the set threshold of 70% was allowed to proceed to financial evaluation stage and finally awarded the contract. This was contrary to the Public Procurement and Asset Disposal Act, 2015.

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

Management response

Review of the evaluation matrix report from the IFMIS in respect to procure and award of contract for the said works, revealed that the bid attracted a total of six (6) bidders. At the preliminary stage, four bidders failed to attain the minimum required score to proceed to the next level (technical level). The maximum weighted score for the technical evaluation was 70% (threshold), and a bidder could only score a maximum of 70% at this stage.

Fekasu Engineering and Construction Co. Ltd and Labyrinth Ltd proceeded to the technical and financial evaluation stages. According to the IFMIS matrix table, the lowest evaluated bidder was Labyrinth Ltd, who was awarded the contract.

Committee observations:

1. ***Failure to provide for open and competitive bidding denied the tax payer best bargains, compromised value for money and robbed the public the benefit of competition***
2. ***Failure to follow due process might have given room for corruption and diversion of public funds for private use.***

Committee recommendation:

The EACC/DCI should investigate this suspicious procurement and hold suspects accountable if theft of public funds is confirmed and recover the lost amount.

3.16. Projects Implementation

3.16.1 Improvement of National Oil-Naivas Road

The County Executive entered into a contract with a local contractor for improvement of Naivas - National Oil Road within Kitui town to bituminous standards in January 2019, at a contract sum of Kshs.39,296,611. Physical verification carried out on 5 November 2020 revealed a section of the road of approximately fifty (50) meters was completed only on one lane. Management explained that the contractor was not able to complete the said section as the owner of a property, which was to be demolished to pave way for the road, had sued the County Executive and obtained stay orders. However, the contractor was paid the full contract amount despite the remaining section of the road being undone.

Management response

There is a section of about 50m single lane on which there is a private property encroaching on the road. There owner of the property got a court injunction to stop the demolition of the property to pave way for the of completion of the road, leading to a single lane of 50m section. The estimated cost to complete the remaining section was Kshs 340,378.35.

At completion date, the contractor gave commitment in writing that he will undertake the works during defect liability period once the court order is lifted since the value of remaining works was less than the retention monies.

At the end of defects liability period, the contractor could not complete the section since the stay order had not lifted and thus the contractor was paid his retention net of the estimated cost to complete the section.

The committee visited and inspected the said project and expressed concerns at the delay of the project for over 24 months. It underscored the need for the County Executive to speed up the construction of the said road.

Committee observation:

~~*The committee observed that the management failed to produce*~~ *documentary evidence at the time of audit, that is the Court Injunction and payment certificate.*

The committee recommends that:

i. The management should provide documentary evidence on the Court Injunction and payment certificate for verification by the Committee and the Office of the Auditor General (OAG) within 60 days of the adoption of this report by the House.

ii. The management, through the office of the County Attorney, should expedite the court process to ensure that the project achieves its *intended objective and that the County realizes the full value of the investment.*

iii. ***In instances where payment has been made for incomplete work, the contractor and responsible officers should be investigated and prosecuted to recover the lost funds.***

3.16.2 Contract for Upgrading of Redeemed Gospel - St. Philips- Kiembeni - Igloos-Slaughter Road

The County Executive also awarded a contract for upgrading of the Redeemed Gospel-Kiembeni Road opposite Naivas to bitumen standards and Cabro paving works on 6 August 2019, at a contract sum of Kshs.44,997,061. Physical verification carried out on 5 November 2020 revealed that potholes had developed on a section of the road at the junction adjacent to Igloos Hotel. Further, drainage channel for part of the road near Kiembeni was poorly done as there were storm water pools on the sides of the road. However, the contractor had been paid in full and discharged of their responsibilities under the contract. In the circumstances, value for money was not realized from the expenditure of Kshs.44,997,061 incurred on the road project.

Management response

At the time of audit, the contractor had not been paid his retention. The defects were noted within the defects' liability period of the contract, and the contractor was instructed to make good the defects before the release of retention money. The payment to the contractor was done in January 2021, after the defects were corrected.

The road is in good condition.

Committee observations:

The committee visited the site in November 2023, and established that the road had already been completed and further that the identified defects by the OAG had already been repaired.

Further the committee noted that no documentary evidence was provided to the OAG for confirmation of the correction of the defects earlier highlighted.

Committee recommendations

In this regard, the Committee recommends as follows: -

i) *That the County Ministry responsible for Public Works should identify all contractors with poor track record in execution of government contracts and blacklist them from being awarded government contracts;*
ii) *That the Management should endeavor to provide the documentary evidence during time of audit to avoid unnecessary queries.*
iii) *The management should provide payment vouchers for verification purposes to both the Committee and OAG within 60 days upon adoption of this report by the House.*

3.16.3 Maintenance of Inyuu - Kamaembe-Kilingie Road

A contract for maintenance of Inyuu-Kamaembe road was awarded on 8 April 2020 at a contract sum of Kshs.22,350,383. Physical verification carried out on 5 November, 2020 revealed that one of the culverts had developed huge cracks while the gabions constructed on section of the road had failed. However, the contractor was paid in full without remedying the noted defects.

Consequently, value for money has not been realized from the road maintenance expenditure of Kshs.22,350,383 incurred.

Management response

The said defects noted by the auditors were communicated to the contractor to make them good. The contractor rectified the gabions and the culvert wingwall. The road is now in good condition.

Committee observation and Committee recommendation

The committee upon inspecting the project in November, 2023 established that the defects had been rectified satisfactorily and considers the matter closed.

3.16.4 Construction of Water Reservoir at Mwingi Hill

During the year under audit, the County Executive awarded a contract for the construction of water reservoir at Mwingi hill at a sum of Kshs.8,691,050. Physical verification of the project done on 12 November, 2020, revealed that, the earth dam was complete and in use. However, the land on which the reservoir was constructed is a private land reported to have been donated to the community by three (3) residents as per an agreement dated 7 April, 2020. However, the owners of the land had started tiling and grazing animals on the land parcel within the dam area which could cause silting and contamination of the water.

In the circumstances, the County Executive is exposed to risk of loss of the investment made on the water dam for lack of rightful ownership to the parcels of land.

Management response

The water office visited the dam to assess the situation of grazing around the water reservoir as reported by the auditor. The site visit revealed that the management committee had taken the responsibility to stop grazing and tilling around the dam.

The land on which the project is situated was donated by three (3) community members for the implementation of the project and the committee is in the process of transferring the land ownership.

During Site Visit inspection by the Committee in November,2023 the Committee observed that the Executive had invested public funds in a private land.

Committee observations

Committee noted with concern that:

i. ***The management opted to invest huge chuck of public funds in a private land.***
ii. ***The committee was concerned on the mitigation measures the management was taking to rectify the anomaly.***

Committee recommendations

The committee recommends that the County Executive should fast track the process of transferring the parcel of land to the County Government.

3.16.5 Contract for Maintenance of Kwa Kavevi - Ngengeka - Kavuta Road

During the year under review, the County Executive awarded contract for maintenance of Kwa Kavevi-Ngengeka-Kavuta road at a sum of Kshs.9,824,853. Physical verification conducted on 13 November, 2020 revealed the contractor was not on site while the completed sections of the road near Kavuta dispensary had developed defects. Gulleys had also formed on three of the culverts near the dispensary while the mouldings had had been eroded by storm water. The culvert at the entrance to the dispensary also had a huge crack posing a threat to the users of the dispensary. There was apparent evidence of poor workmanship on the road works coupled with delayed completion.

Consequently, value for money may not be realized with the continued delay in project implementation and failure to rectify the apparent defects.

Management response

The contractor had completed the project in May 2020, and by the time the auditors visited the project, it was within the defect's liability period. During October and November 2020 rains, some gulleys developed near Kavuta Dispensary as result flush floods.

The contractor was instructed to remedy defects.

Further, during visit by the committee on November, 2023 the committee observed that the road was being upgraded.

Committee observations

The committee noted that:

i. ***The road was previously marked with numerous defects including gullies and defective installation of culverts.***

ii. ***There was apparent evidence of poor workmanship on the roadworks coupled with delayed completion.***

iii. ***Value for money was not realized with the continued delay in project implementation.***

Committee recommendations

- *The management should always ensure that project implementation strictly adheres to stipulated timeliness.*

Further, the management should provide documentary evidence for verification purposes to both the Committee and OAG within 60 days upon the adoption of this report by the House, so as to confirm that the project is complete and in use.

3.16.6 Maintenance of AIC Mbau Thonzweni - Tumila - Ndoto Njema Road

During year under review, the County Executive awarded a contract for the maintenance of AIC Mbau Thonzweni - Tumila - Ndoto Njema road at a sum of Kshs.12,981,502. Physical verification of the project done on 12 November, 2020 revealed that the contractor was not on site and there were notable debris at the drifts and in the culverts. Further, there was formation of gulley at Tumila area which may render the road impassable.

Management response

The debris were caused by surplus excavated soil during construction of drift and culverts. The contractor has since cleaned the soils and made the inlets and outfalls of drainage structures good.

The scope of work at Tumila included road widening in which the erosion on the downstream after installation of cross culvert, which was not envisaged and therefore not captured during survey and preparation of Bills of Quantities. However, the said erosion happened outside the carriageway and has never affected the road therefore the road still in use.

Committee observation:

The Committee observes that implementation of the project was marred by poor planning and monitoring which gave the contractor leeway to do shoddy work hence denying the public the intended benefits.

Committee recommendation:

The committee recommends that the County Government should institute measures to ensure that project implementation is closely monitored and projects are executed in line with specifications, standards and completed in time to minimize cost overruns.

3.16.7 Construction of Pay Point and Waiting area at Kitui County Referral Hospital

During the year under review the Management paid Kshs.3,712,650 for the contract for the construction of pay point and waiting area at Kitui County Referral Hospital. Physical verification carried out on 11 November 2020 revealed that the contractor was not on site. Further, the structure although ~~declared complete had no electrical fittings with wires hanging loosely and~~ had a leaking roof at the pay point and the waiting area, which was damaging the ceiling.

Management responses

A tender for a contract of Kshs.3,712,650 was awarded on February 20, 2018, for the contract for the construction of pay point and waiting area at Kitui County Referral Hospital. The contractor carried out the works and was paid the sum pf Kshs 3,712,650 as indicated by the audit report.

The contractor was notified of the said defects and rectified the defects within the defects liability period and the project is currently in use. Further, the committee inspected the project in November, 2023 and found the project had been done to completion and was operational.

Committee observation and Committee recommendation

The committee recommends that the matter be put to rest. However, the management should ensure that project implementation and supervision is carried out accordingly.

3.16.8 Construction of Perimeter Wall and Fencing at Mwingi Hospital

During the year under review, the County Government paid an amount of Kshs.3,195,569 against a contract of Kshs.30,000,000 awarded on 4 January 2019 for partial construction of perimeter wall and chain link fencing at Mwingi Level IV Hospital. The contract period which was for 5 months had since lapsed. Project verification done in November 2020 revealed that, the project had stalled at 45% completion level while the contractor had abandoned the site. There is no evidence of the contractor having sought extension after the expiry of the contract period.

In the circumstances, I am unable to confirm whether the public will obtain value for money from the on projects.

Management responses

A tender for the proposed construction of a perimeter wall at Mwingi Level 4 hospital was awarded on 4 January 2019 for a period of 5 months with Contract value Kshs 30,000,000.

We acknowledge that the contract period had lapsed at the time of the audit, and the contractor had applied for extension.

The county government is in the process of valuing the work done and preparing a revised bill of quantities in view to procure the remaining works.

The project was still incomplete as at November, 2023 during a committee site inspection.

Committee observations

The committee

i. *Observed that implementation of the project was characterized by poor planning and monitoring which gave the contractor ample opportunity to demobilize and leave the site leading to stalling of the project thus denying the public the intended benefits.*
ii. *Castigates the management for not moving with speed to have the facility secured and also for failure to implement clauses for liquidation damages in cases of non-completion of the project.*
iii. *Observed that the project was still incomplete beyond the stipulated contractual period thus value for money was not realized and the intended benefit was never achieved.*

Committee recommendations

The committee recommends that:

i. *The County Government should take immediate action to finish the incomplete project and provide information on the project status, and plans to complete the project within 60 days from adoption of this report.*
ii. *Contract agreements should contain clauses with respect to liquidated damages for non-completion of contract and should be drafted by the County Attorney.*

iii. *The County Government should ensure proper project conceptualization, planning and adequate budgetary provision for projects. This should be undertaken before embarking on projects to ensure timely completion.*

iv. *Officers responsible/involved in stalled projects should be subject to disciplinary action for failure to oversee the project to logical conclusion.*

3.17. Stalled Projects from Prior Years

3.17.1 Construction of Multi-Storey Maternity Ward at Kitui County Referral Hospital

During the year under review, an amount of Kshs.9,559,250 was paid to a contractor for the construction of a multi-storey maternity ward at Kitui County Referral Hospital. The tender had been awarded on 11 May 2017 at a contract sum of Kshs.242,782,653 with a duration of twenty-four (24) months. However, the project file presented for audit review lacked inspection and engineer's valuation reports showing value of certified works. Further, physical verification done on 11 November 2020 revealed that the project had stalled at slab level and the contractor was not on site.

The completion of the project is therefore doubtful and value for money may not be realized.

Management responses

The construction of multi-storey maternity ward at Kitui County Referral Hospital was awarded on 11 May 2017 at a contract sum of Kshs.242,782,653. The project was terminated on December 18, 2018, and thereafter, the works and material on site were valued at Kshs 11,682,185 which was paid.

The county government is in the process of quantifying the remaining works to prepare a revised bill of quantities.

Committee observations

The committee reiterates its observations and recommendations under sub-paragraph 3.7.2 above in respect of credible documentation explaining and substantiating the undertakings in this project.

Further the committee re-emphasizes that the documents in question should have been provided to the auditor on or before the verification exercise.

Committee recommendations

The committee restates its recommendations in sub-paragraph 3.7.2 above and also re-emphasizes that the management should;

i. *At all-times comply with the audit timeliness as specified in Section 68(k) of the PFM Act, 2012 and take appropriate measures to resolve any issues arising from audit which remains outstanding as required by section 68 (l) of the PFM act 2012.*

ii. *Failure to comply, the appointing authority is prevailed upon to discipline the errant accounting officers, which could include revoking their appointments on the basis of persistent negligence of duty.*

3.17.2 Construction of Amenity Block at Kitui Referral Hospital

The County Executive paid a contractor an amount of Kshs.6,533,528 during 2018/2019 financial year for the construction of an amenity ward at Kitui

Referral Hospital. The contract had been awarded in 2016-2017 financial year at a sum of Kshs.144,775,000 with a contract period of 24 months. However, physical verification done on 11 November 2020, revealed that the project had stalled at the slab level and the contractor was not on site. Further, only works valued at 16.4% had been certified despite the contract period having elapsed with no extension of time having been granted.

Management responses:

The construction of multi-storey maternity ward at Kitui County Referral Hospital was awarded in 2016-2017 at a contract sum of Kshs. 144,775,000. The project stalled at ground floor supper structure walling. At the time of the audit, the contract period had expired and not extension had been processed.

The county government is in the process of quantifying the remaining works to prepare a revised bill of quantities.

Committee observation and Committee recommendation

The committee reiterates its observations and recommendations under sub-paragraph 3.17.1 in respect of the stalled building.

3.17.3 Construction of Outpatient Block at Mutomo in Kitui South Sub-County

A tender for construction of Outpatient Block at Mutomo in Kitui South subcounty was awarded in the year 2016/2017. Physical verification done in November 2020 revealed that the project had stalled at the foundation level. The construction was only 2 courses above the ground while the floor slab had not been done. The contractor had demobilized, and the site abandoned. The Management, however, did not invoke clause 6 of the contract agreement and Section 140 of the Public Procurement and Asset Disposal Act, 2015 which stipulates the liquidated damages for delayed performance of contract.

Management responses

This contract was awarded in 2016-2017 for the construction of an Outpatient Block at Mutomo hospital in Kitui South sub-county at a contract sum of Kshs 7,400,171. The project stalled at foundation level, and the contractor abandoned the site.

It is true that the contractor had abandoned the site and the county executive had not invoked clause 6 of the contract at the time of audit as reported.

The county government is in the process of quantifying the remaining works to prepare a revised bill of quantities.

Committee observation and Committee recommendations

The committee restates its observations and recommendations under sub-paragraph 3.17.1 as regards the incomplete Outpatient Block at Mutomo.

3.17.4 Construction of Mortuary at Mwingi Level IV Hospital

A tender for construction of mortuary at Mwingi Level IV hospital was awarded on 2 March 2017 at a contract sum of Kshs.20,508,600. During the physical verification done on 12 November 2020, it was observed that roofing and ceiling had been done which is approximately 80% level of construction works. However, doors, windowpanes, electrical fittings, and wiring, plumbing and installation of the machines had not been done. It was further noted that there was poor workmanship since the ceiling was leaking and the contractor had abandoned the site and works had stalled.

Management response

A tender for construction of mortuary at Mwingi Level IV hospital was awarded on 2 March 2017 at a contract sum of Kshs.20,508,600. The project stalled at 80% as indicated by the audit report.

The county government is in the process of valuing the work done and preparing a revised bill of quantities in view to procure the remaining works.

Committee observation

The committee observes that the irregularities surrounding this transaction are clear signs for risk of corruption, collusive, fraudulent or otherwise illicit behaviours in execution of the contract and indicates troubling patterns across the procurement systems in the county government worthy of further investigation.

Committee recommendation

The committee invites the EACC/DCI to conduct a full-scale investigation into the matter and fix accountability if theft of public funds is confirmed and recover the lost amount.

3.17.5 Construction of Maternity Ward at Nuu Sub-County Hospital

A tender for construction of Maternity Ward at Nuu sub-county hospital was awarded in 2016-2017 financial year at a sum of Kshs.5,095,090. However, physical verification on 11 November 2020 showed that the project had stalled at the roofing stage which is approximately 70% level of construction works and the contractor was not on site. It was further noted that doors, windows, plastering, painting, electrical fittings and wiring and flooring had not been done. There was no evidence of approval of contract time extension.

Management responses

It is true that the contract period had expired at the time of audit, and the contractor had not applied for extension of contract time. The project had stalled, and the contractor had abandoned the site.

The county government is in the process of valuing the work done and preparing a revised bill of quantities in view to procure the remaining works.

Committee observation and Committee recommendation

The committee reiterates its observations and recommendations under sub-paragraph 3.7.2 in respect to the aforementioned project.

3.17.6 Construction of Outpatient Department at Zombe Health Centre

A tender for the construction of outpatient department at Zombe Health Centre was awarded in 2016-2017 financial year at a sum of Kshs.7,835,005. Physical verification done in November 2020 revealed the project had stalled at the ground /slab level which is approximately 5% level of construction works while the contractor was not on site.

Management response

The construction of outpatient department at Zombe was awarded in 2016-2017 at a contract sum of Kshs.7,835,005. The project stalled and was terminated.

During the financial year 2022-2023 an amount Kshs 4,812,328 was allocated for completion of this project and now the contractor is on site.

Committee observation and Committee recommendation

The committee reiterates its observations and recommendations under sub-paragraph 3.7.2 in respect to the aforementioned project.

3. 17.7 Construction of Mortuary Building at Kitui County Referral Hospital

A tender for construction of Kitui Mortuary was awarded in 2018/2019 financial year at a sum of Kshs.3,145,177. However, physical verification on 11 November 2020, revealed that the project had stalled at the walling stage which is approximately 30% level of the building construction and vegetation and bushes had grown inside the incomplete building. It was further noted that roofing, doors, windows, plastering, painting, electrical fittings and wiring, fixtures and fittings and flooring had not been done. The contractor was not on site and there was no evidence of approval of contract time extension.

Management response

A contract was awarded for the construction of mortuary building at Kitui County Referral Hospital in 2018/2019 at a cost of Kshs 22,933,210. The project stalled at approximately 30%, with amount paid being Kshs 3,145,177. The contract period expired and was not extended. There is an ongoing negotiation with the contractor to terminate the contract.

The county government is in the process of valuing the work done and preparing a revised bill of quantities in view to procure the remaining works.

Committee observation and Committee recommendation

The committee reiterates its observations and recommendations under sub-paragraph 3.7.2 in respect to the aforementioned project.

3.17.8 Construction of Blood Transfusion Satellite Building at Kitui County Referral Hospital

Physical verification of projects in Kitui County Referral Hospital during the year, revealed that the construction of blood satellite building which started in 2017/2018 financial year had stalled at walling stage. Further, roofing, doors, windows, flooring, plastering, painting, electrical wiring and fittings had not been done and the contractor was not on site.

In the circumstances, I am unable to confirm when and whether the public will get value for money on the public resources spent.

Management response

The blood Transfusion satellite building was a multiyear project awarded in 2017-18 and had stalled at walling stage. The contract was terminated, and contractor paid all the certified work. During the financial year 2022-2023 the project was readvertised and awarded at cost of Kshs 4,166,601. A contractor is currently on site.

Committee observation and Committee recommendation

The committee reiterates its observations and recommendations under sub-paragraph 3.7.2 in respect to the aforementioned project.

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

The statement of receipts and payments reflects compensation of employee's expenditure of Kshs.4,193,011,541 for the year under review representing approximately 42% of the total revenue of Kshs.9,954,812,932 (excluding Returned CRF issues). Consequently, the compensation of employees cost exceeded the set threshold of 35% stipulated under section 25(1) of the Public Finance Management (County Government) Regulations, 2015.

Consequently, Management is in breach of the law.

Management response

To ensure compliance with Regulation 25 (1) of the PFM (County Governments), 2015 on the percentage expenditure on personnel emoluments, the county government formed a taskforce named, Kitui County Human Resource Audit and Rationalization Committee which presented their findings and recommendations to H.E., the Governor in February 2023. The county executive is implementing these recommendations in order to progressively achieve the requirement of the regulation. Some of the recommendations include:

a) **Carry out regular staff and payroll audits:** The County formed Kitui County Human Resource Audit and Rationalization Committee which presented their findings to H.E., the Governor in February 2023. The committee made the following recommendations:

i. The County Public Service Board (CPSB) should not undertake recruitment without a request for staff by the relevant departments and confirmation of a budget.

ii. All appointments should be in line with the Career Progression Guideline which stipulates the requisite job specifications unless a waiver is given; and

iii. CPSB should always give preference to qualified officers already in service.

b) **Rationalization of the engagement of temporary and casual staffs:** Controlled engagement of temporary employees whereby all casuals will be on three months' contract as per need basis and a cabinet resolution that the County Executive Committee must approve any casuals being engaged by departments.

c) **Freezing of hiring in non-critical departments:** Employees leaving employment in non-critical departments under natural attrition and retirement shall not be replaced. In addition, all new recruitments by departments must be approved by the County Executive Committee.

Committee observations

The Committee castigated the management for flouting the law hence weakening human resources management practice. The management breached Section 25 (1) of the public Finance Management (County Governments) Regulations, 2015 which stipulates that personnel emoluments expenditure should not exceed 35% of the total receipts.

Committee recommendations

The committee recommends that:

i. *The County Executive should implement the recommendations of the taskforce formed by H.E the Governor, Kitui County on Human Resource Audit and Rationalization, which aimed to rationalize staffing and ensure compliance with Section 25 (1) of the public Finance Management (County Governments) Regulations, 2015.*

ii. *The taskforce report on Kitui County Human Resource Audit and Rationalization should be forwarded to the County Assembly within*

60 days upon adoption of this report by the County Assembly, for further scrutiny and subsequent necessary recommendations.

iii. *The County Assembly should ensure that the County Public Service Board (CPSB) operates independently from the influence of the County Executive by thoroughly exercising its oversight role through its committees visually the Labour Committee and Committee on administration of county affairs.*

3.19. Non-adherence to One Third Basic Salary Rule

Analysis of the payrolls revealed that nineteen (19) employees drew net salary that was below one third of their basic pay contrary to Section 19(3) of the Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay. In the circumstance, the Management is in breach of the law.

Management responses

The employees devolved by the National Government had been enrolled into a non-contributory pension scheme which, the government was paying their pension. However, the scheme was replaced with Government of Kenya Superannuation Scheme which is contributory and progressive in nature I.e., each year, the percentage contributed by the employee increase. Since the employees may have committed their salaries leaving just enough to accommodate the one third, subsequent pension contribution increments resulted into the staff net pay falling below the required threshold.

Implementation of finance act 2023 may result in more employees falling behind the one third rule since introduction of Housing Levy and increase in contribution of National Social Security Fund, National Hospital Insurance Fund will further reduce disposable income.

In future, the payroll department will be advising employees on the consequences of progressive nature of the scheme before they approve their loan requests.

Committee Observation

The committee observed that some of the Staff were earning less than a third of their basic pay contrary to Section 19 (3) of the Employment Act, 2007.

Committee recommendation

The Committee therefore recommends that;

i. ***The County Executive should configure the integrated payroll and personnel data base (IPPD) system such that it is able to lock out Commitments beyond the Accepted thresholds.***
ii. ***The OAG should continue monitoring the issue in subsequent financial years.***

3.20. Non-compliance with Law on Ethnic Composition

Review of human resource records revealed the County Executive had a total of 3,721 employees out of which 3,142 or 84% were from the dominant local community in the County. This is contrary to the provisions of the National Cohesion and Integration Act, 2008 which stipulates that at least 30% of employees should be from communities other than the dominant one. Consequently, the Management is in breach of the law.

Management responses

The Kitui County Public Service Board has always endeavoured to attract candidates for employment from the entire republic. This is by ensuring that vacancies declared within the Kitui County Public Service are declared and advertised in county website and local dailies with nationwide coverage. Kitui County displays a clear message in bold that 'County Government of Kitui is an equal opportunity employer and does not charge commission for recruitment services. Women, minorities, marginalized and persons living with disabilities are encouraged to apply'.

Despite all the efforts, various factors have made it impossible to have a County Public Service with a national outlook in terms of employee representation. The County is perceived by many as a hardship region hence many people would prefer to secure employment in other Counties whose infrastructure, terrain and climatic conditions are deemed more favorable.

Committee Observations

The Committee concurs that Kitui's workforce is dominated by major local ethnic group but reckons that the issue is not unique to Kitui as other counties in Kenya continue to hire their ethnic kinsmen in blatant violation of prevailing legislations. Research /findings by the committee reveal that all counties have not met employment of at least 30 percent of the workforce from communities outside respective devolved units.

The Committee understands that:

1) ***The constitution requires the dominant ethnic group in every county to take up 70 percent of employment and the rest be occupied by workers from other communities.***

2) ***The need to have workers from other ethnic groups being employed in other counties is to promote national unity and cohesion.***

3) Nearly all counties have a lot of work to do in their diversity management as tribalism appears to have become a bigger problem with devolution.

4) The Committee regrets that in spite of the constitution requirements for gender equity, most counties are still unable to put in place mechanism to ensure inclusivity.

Committee recommendations

To ensure inclusivity and observance of the law, the committee recommends that all county public service boards should

1) *Be insulated from political interference and intrusive bureaucrats.*

2) *Embed the constitutional requirements during recruitment and ensure diversity.*

3) *Regularly perform ethnic audits to ascertain ethnic distribution in the county.*

4) *Always ensure that the recruitment process is fair and on merit so that equal chances are given to all people seeking to work for the Kitui county government including the disabled and marginalized groups.*

3.21. Irregular Operation of Commercial Bank Accounts

As disclosed in Note 21 A to the financial statements, the County Executive operated thirty-seven (37) bank accounts. Analysis of bank details revealed that thirteen (13) accounts were in the Central Bank of Kenya (CBK), while the remaining twenty-four (24) bank accounts are held at various commercial banks. This is contrary to the provisions of Section 82(1)(b) of the Public Financial Management (County Governments) Regulations, 2015 which stipulates that all County Governments bank accounts should be maintained at the Central Bank of Kenya except for imprest account.

Consequently, the Management is in breach of the law.

Management responses

The county government of Kitui opens and operates its bank accounts (recurrent, development and special purpose accounts) at the Central Bank of Kenya. Additionally, donors may require that project accounts be opened at a commercial bank account to facilitate operations for that project. Where such requirement is included in the financing agreement, an account is opened in one of the commercial banks.

The County Government also opened and operates its revenue accounts from commercial banks since CBK does not operate a branch in Kitui to provide revenue banking services. In this case, a commercial bank account is opened at Kenya Commercial Bank of Kenya, Kitui Branch. Money collected in this account is swiped to the County Revenue Fund Account held at CBK.

Also included in the report are accounts opened in commercial banks by hospitals to facilitate their operations since they are not in IFMIS. These hospitals receive disbursements from the county government on regular basis to finance their operations. These accounts are included in our report since the expenditure from the hospitals is included in the county executive financial report.

Committee observation and Committee recommendation

The committee concurs with the auditor that this matter should be closed as it was satisfactorily addressed.

3.22. Unbanked Revenue

Included in the receipts is an amount of Kshs.12,916,368 being revenue collected during the year but unbanked as at 30 June, 2020. No explanation was provided for failure to bank contrary to the provisions of Section 63(4) of the Public Finance Management (County Governments) Regulations, 2015).

Management response

The unbanked cash resulted from collectors not banking all the revenue collected. The unbanked revenue was declared through the revenue collection system but not surrendered to the cashiers or banked as required during the day or within the stipulated period in law.

The committee heard verbal evidence from both the CECM and the CO that they could not punish the concerned revenue collectors since they were their people.

Committee observations

i. ***That, with revenue to the tune of Kshs.12,916,368 collected and neither surrendered nor banked as at 30 June 2020, the committee noted that the failure to have the revenue banked denied the County Government the scarce financial resources that it needed to undertake its development programmes and projects on time.***
ii. ***That the failure to bank intact all revenue collected signaled negligence or rather laxity by the Accounting Officer(s) in pursuing efficient revenue collection modalities. Most of the***

revenue collected might have been misappropriated due to the weak accountability systems in place.

iii. *The committee attributed the failure to bank on time revenue collected to in-effective monitoring mechanisms and negligence by revenue collection department. This negated Regulations 63(1)(a) &(b) and 63(2) and63(4) of the Public Finance Management (County Governments Regulations) 2015 which are reproduced below;*

- *63(1)(a) &(b) An accounting officer and a receiver of revenue are personally responsible for ensuring that (a) adequate safeguards exist and are applied for the prompt collection and proper accounting for, all county government revenue and other public moneys relating to their county departments or agencies; (b) adequate measures, including legal action where appropriate, are taken to obtain payment;*

- *63(2) an accounting officer or receiver of revenue who experiences difficulty in collecting revenues due to the county government shall report the circumstances to the County Executive Committee Member without delay and*

- *63 (4) All public moneys collected by a receiver of revenue or collector of revenue or collected and retained by a county government entity, shall be paid into the designated bank accounts of the county government and shall not be used by any public officer in any manner between the time of their receipts and payment into the bank except as provided by law.*

Committee recommendations

The Committee recommends that:

i. *That the EACC/DCI should undertake thorough investigations on revenue collected and willfully withheld by a section of unscrupulous county revenue department employees with a view to ascertaining whether the vice was* *still ongoing and hold suspects accountable if cases of fraud, corruption, embezzlement or other financial improprieties are established and to have any stolen money recovered.*

ii. *To achieve efficiency in revenue collection and optimize on management, the County government should fast-track the modernization of its financial systems including acquisition of an integrated platform and an automated revenue management system, that can also be monitored to avoid abuse, with the objective of;*

- *Providing citizens with convenient and secure payment options for different services provided by the county*
- *Having the ability to monitor revenue collection from several sources on real time basis and to minimize cash handling by revenue collectors.*

iii. *That the revenue administration should increase its efforts in building its capacity of revenue collection by periodically evaluating and following up how revenue collection was being carried out within the County Government of Kitui area of jurisdiction.*

iv. *That the Appointing Authority should crack the whip and have disciplinary action meted on both the CECM and CO for abetting crime that was happening under their watch in the guise that the rogue revenue collectors were "sacred cows" and as such could not be punished for their illegal deeds of blatantly robbing the public coffers.*

The committee awaits progress report on implementation of these recommendations not later than 60 days after adoption of this Report by the House. The same should be communicated to the committee as the action taken.

3.23. Lack of County Public Service Board and Approved Staff Establishment

During the year under review, the County Executive did not have a County Public Service Board. This hinders effective performance of the human resource function since the Board is empowered with:- (i) establishing and abolishing offices in the county public service; (ii) appointing persons to hold or act in offices of the county public service including in the boards of cities and urban areas within the County and to confirm appointments; (iii) exercising disciplinary control over, and removing persons holding or acting in those offices;(iv) preparing regular reports for submission to the County Assembly on the execution of the functions of the Board. Further, the County Executive did not have an approved staff establishment structure in place. It was therefore not possible to determine the approved staffing levels.

In the circumstances, it was not possible to confirm existence of effective controls on staffing levels including governance.

Management Response

At the time of audit, the county government of Kitui did not have a County Public Service Board. However, the County Executive was in the process of recruiting the board members and were appointed to office in 2021.

We acknowledge there is no approved staff establishment, but the county executive is in the process of developing staff establishment. The County government of Kitui, through the committee established by the gazette notice No. 8414 of 11th November 2022 undertook staff audit and rationalization and embarked on an exercise to determine the required staffing levels and the appropriate staff establishment for the county. The report will culminate in the determination of authorized staff establishment that will be the basis of all future recruitment and staff management.

Committee observations

The Committee observed that:

i. *Without an approved staff establishment, the County Executive continues to employ staff without a proper plan which could lead to over staffing in certain areas while limiting critical areas that require more personnel.*
ii. *With lack of staff establishment framework, the CPSB is unable to demonstrate how they deal with variances in staff ranking and over/under staff establishment. Consequently, the CPSB cannot ascertain appropriate use of Human capital available*

Committee recommendations

To address these issues, the Committee recommends that the CPSB should;

i. *As a matter of urgency develop a human resource policy that clearly stipulates how each category of the employees would be recruited into the service of the County Government. Recruitment and placement of staffs should also adhere to the requirement of Article 10 and 232 of the Constitution of Kenya 2010.*
ii. *Develop Human resource and training policies so as to effectively manage the Human resource functions.*

3.24. Non-disclosure of Revenue Arrears

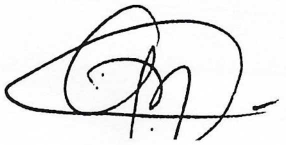
Examination of reports from the Local Authority Integrated Financial Operation Management System (LAIFORMS) revealed that the County revenue arrears stood at Kshs.434,976,562 as at 30 June, 2020. However, there was no evidence of measures put in place by Management to collect the revenue. In the circumstances, it was not possible to confirm existence of effective revenue collection measures.

Management response

Land rates and rent are collected using LAIFOMS (Local Authorities Integrated Financial and Operations Management System) which was being used by the defunct local authorities namely, Kitui County Council, Mwingi County Council, Kitui Municipal Council, and Mwingi Town Council. The authorities operated standalone LAIFOMS systems, whose data was merged after transition to counties. The data pool created after the merger of these records needs some data validation to match what is in the system to the physical plots.

In this regard, the County Executive has since initiated the preparation of Land valuation roll for ease of identification, validation, and subsequent follow-up on unpaid rates. A draft valuation roll has been finalised and is due for inspection and presentation to the public before it is gazetted.

The Ministry of Lands, Physical Planning and Urban Development has also budgeted in the 2023/2024 budget for acquisition of an Integrated Land management system to ensure payments compliance. Follow-up also has been done through issuance of Demand notices and building inspections to ensure timely payment of land rates arrears.



Committee observations

The Committee observed that:

i. *Substantial amount of revenue could have remained uncollected owing to the ineffective collection methods and giving the debtors notice of payment which could not be relied on.*
ii. *The best approach that the management could have applied was to enforce payments from debtors by issuing demand notes for payments instead of publishing of the debtors in the print media.*
iii. *The under collection of revenue signaled negligence or rather laxity by the accounting officer in pursuing debt collection.*
iv. *Most of the revenue collected might have been misappropriated due to the weak accountability system.*

Committee recommendations

The committee recommends that:

To achieve efficiency in revenue collection and optimize on management, the County Government should fast track the modernization of its financial systems including acquisition of an integrated platform and an effective automated revenue management system with the objective of;

i. *Providing citizens with convenient and secure payment options for different services provided by the county.*
ii. *Having the ability to monitor revenue collection from several sources on real time basis and to minimize cash handling by revenue collectors.*
iii. *Updating the Valuation Roll to improve the accuracy and effectiveness of revenue collection.*