COUNTY ASSEMBLYS OF BUNG OMA

OFFICES OF THE CLERK

THIRD SESSION

PUBLIC ACCOUNTS AND INVESTIMENTS COMMITTEE

REPORT ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE OF BUNGOMA FOR THE PERIOD ENDED 30TH JUNE2023

Clerks Chambers
County Assembly Buildings
P.O BOX 1886 - 50200
BUNGOMA, KENYA

September, 2024

ACRONYMS

IPSAS	International Public Sector Accounting Standards
PSASB	Public Sector Accounts Standards Board
CRF	County Revenue Fund
CARA	County Allocation of Revenue Act
AiA	Appropriation in Aid
BCRH	Bungoma County Referral Hospital
MCA	County Assembly
CG	County Government
CoK	Constitution of Kenya
FY	Financial Year
KDSP	Kenya Devolution Support Programme
PFMA	Public Finance Management Act
WBPs	Ward Based Projects
IFMIS	Integrated Financial Management Information System (IFMIS)
KEMSA	Kenya Medical Supplies Authority

CHAPTER ONE

PREFACE

Mr. Speaker Sir,

On behalf of the members of the Public Accounts and Investments Committee (PAIC) and pursuant to the provisions of Standing Order No. 186 and in accordance with Article 229 of the Constitution of Kenya 2010, it is my great pleasure and privilege to present to this House the Committee's report on the Report of the Auditor General in respect to the financial statements of the County Executive of Bungoma for the period ending 30th June, 2023.

This report presents the findings of the Public Accounts and investments Committee on the auditor general's report for the Bungoma County Government Executive for the period ended 30th June, 2023. The Public Accounts and investment's Committee is a legislative oversight committee which has meticulously looked at the auditor general's assessments to ensure transparency, accountability and proper use public resources in Bungoma County.

The findings of the committee highlight several areas of concern including instances of non-compliance with financial regulations and lapses in internal controls among others. The findings as outlined in the report not only critiques but serve as a foundation for constructive recommendations aimed at enhancing the governance framework within Bungoma County.

This report was received in the Office of the Clerk to the County Assembly on 4th March, 2024 and tabled in the house on **20th March, 2024** thus committed to the Public Accounts and investment's Committee whose mandate is to interrogate and write a report back for adoption by this house with the recommendations therein

2.0. MANDATE OF THE COMMITTEE

Mr. Speaker Sir,

The Bungoma County Assembly Public Accounts and Investments Committee is a Select Committee established under Standing Order No. 209 of the Bungoma County Assembly Standing Orders. Standing Order 209 (5) provides that, the functions of the Public Accounts and Investments Committee shall be to-

(a)Pursuant to the provisions of **Article 185(3)** of the Constitution, exercise oversight over the County Executive Committee and any other County Executive organ.

(b) Pursuant to **Article 229(7) and (8)** of the Constitution, examine the reports of the Auditor-General on the Annual Accounts of the County Government.

(C) Examine special reports, if any, of the Auditor-General on County Government Funds.

(d) Examine the reports, if any, of the Auditor-General on County Public Investments; and

(e) Exercise oversight over County Public Accounts and Investments.

3.0. COMMITTEE MEMBERSHIP

The committee as currently constituted comprises of the following members;

1.	Hon. Everton Nganga	Chairperson
2.	Hon Timothy Chikati	Vice Chairperson
3.	Hon Anthony Lusenaka	Member
4.	Hon Everlyne Mutiembu	Member
5.	Hon. Jerusa Aleu	Member
6.	Hon Metrine Nangalama	Member
7.	Hon Kennedy Wanyama	Member
8.	Hon Stephen Kaiser	Member
9.	Hon Alfred Mukhanya	Member
10.	Hon Moureen Wafula	Member
11.	Hon Everlyne Anyango	Member

OFFICE OF THE AUDITOR GENERAL

1. Mr. Peter Mungai CPA

4.0 POWERS

Mr. Speaker Sir, the Committee derives its mandate from Bungoma County Assembly **Standing Order No. 186** which states that "***there shall be a select committee to***

be designated the Public Accounts Committee which shall be responsible for the examination of the accounts showing the appropriation of the sums voted by the County Assembly to meet the public expenditure and of such other accounts laid before the house as the committee may think fit."

The primary mandate of Public Accounts and Investment's Committee therefore is to oversight the expenditure of public funds by County Executive Departments, to ensure value for money and adherence to government financial regulations and procedures. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor-General (OAG).

As a Committee, we are united in the quest for value for money in the expenditure of public funds. This ambition should be shared by politicians in this Honorable House, County Public Servants including County Executive Committee Members and Chief Officers who are tasked with pursuing this goal.

5.0 GUIDING PRINCIPLES

In the execution of its mandate afore-stated, PAC is guided by core constitutional and statutory principles on Public Finance Management, as well as established customs, traditions, best practices and usage. These principles include:

1) Constitutional Principles on Public Finance

Article 201 of the Constitution of Kenya 2010 enacts fundamental principles that ***"...shall guide all aspects of Public Finance in the Republic..."*** These principles include:

201(a) there shall be openness and accountability, including public participation in financial matters;

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

201(e) financial management shall be responsible, and fiscal reporting shall be clear.

Section 39 of the **Public Audit Act, 2015** states that:

(1) All reports of an Audit shall be submitted to Parliament or the relevant County Assembly.

(2) Within seven days of receiving the report, Parliament or the relevant County Assembly shall publicize it on its official website and other public spaces.

(3) Within fourteen days after the expiry of seven days upon submitting the report to Parliament or the relevant County Assembly, the Auditor-General shall publicize the report on their official website and other public spaces.

2) Audit of Public Accounts

According to Article 229(4) of the Constitution of Kenya 2010, within six months after the end of each financial year, the Auditor General is required to examine, audit and Report in respect of that financial year, on-

(a) the Accounts of the National and County Governments;

(b) the accounts of all funds and authorities of the National and County Governments and express an opinion in the report; and ascertain whether money appropriated by Parliament or the relevant County Assembly and disbursed;-

i. has been applied for the purpose for which it was appropriated or raised;
ii. was expended in conformity with the authority that governs it; and
iii. Was expended effectively, efficiently, economically and transparently as provided for under section 149 of the Public Finance Management Act, 2012; and the said Audit reports shall then be submitted to Parliament or the relevant County Assembly.

Article 229(8) of the Constitution provides that, within three months after receiving an audit report, Parliament or the County Assembly shall debate and consider the report and take appropriate action.

Further, the provisions of section 117 (1) & (2) of the County Governments Act, 2012 on standards and norms for public service delivery state that;

(1)A county Government and its agencies shall in delivering public services-

a) Give priority to the basic needs of the public;
b) Promote the development of the public service institutions and ensure that all members of the public have access to basic services.

(2)Public services shall be equitably delivered in a manner that accords to-

a) Prudent, economic, efficient, effective and sustainable use of available resources;
b) Continued improvement of standards and quality;
c) Appropriate incorporation of the use of information technology; and
d) Financial and environmental sustainability.

3) Direct Personal Liability

Article 226(5) of the Constitution is emphatic 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".

PAC has hoisted high these constitutional provisions as the basis for holding each individual accounting officer and other Public Officers directly and personally liable for any loss or misappropriation of public funds under their watch. The Committee has and will continue to invoke these provisions in its recommendations to hold those responsible personally accountable. This is also intended to serve as a deterrent measure.

4) Obligations of Accounting Officers

Mr. Speaker Sir,

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-

(a) lawful and authorized; and

(b) effective, efficient, economical and transparent"

Moreover, Section 156(1) of the Public Finance Management Act, 2012 states 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 the regulations; or
b) Refer the matter to be dealt with in terms of the statutory and other conditions of employment applicable to that public officer.

Further, Section 156(2) of the same Act states that, if the County Executive Committee Member for Finance reasonably believes that an accounting officer has engaged in improper conduct within the meaning of subsection (4) of this section, the County Executive Committee Member for finance shall-

(a) Take appropriate measures to address the matter in accordance with laid down procedures; or

(b) Refer the matter to be dealt with in terms of the statutory and other conditions of employment applicable to that public officer.

In addition **Mr. Speaker Sir**, Section 156(3) of the same Act states that; measures referred to in subsection (2) (a) include the County Executive Committee Member for Finance revoking the designation as accounting officer.

For clarity purposes **Mr. Speaker Sir,** Section 156(4) of the said Act states that; for the purposes of this section, a public officer or accounting officer engages in improper conduct if the officer-

(a) Contravenes or fails to comply with this Act or any regulation in force;

(b) Undermines any financial management procedures or controls;

(c) Makes or permits an expenditure that is unlawful or has not been properly authorized by the entity concerned; or

(d) Fails without reasonable cause to pay eligible and approved bills promptly in circumstances where funds are provided for.

These sections empower the appointing authority to discipline errant accounting officers, which could include revoking their appointment. These provisions have sealed a long standing loophole that has previously seen accounting officers continuously commit or preside over fiscal indiscipline and malpractice in their Departments with impunity without sanction.

Mr. Speaker Sir, Public Accounts and Investments Committee strongly holds the view that these provisions of the law were intended to be fully installed to operationalize and also to enforce the principles provided for in Article 201 of the Constitution stated herein above, to ensure prudent and responsible use of public funds. The Committee accordingly applied these provisions to recommend various disciplinary actions against persons found to bear responsibility for breach of the law and/or responsible for the loss or wastage of public funds.

Mr. Speaker Sir, the report of the Auditor General on the financial statements of the County Executive of Bungoma for the year ended 30th June, 2022 has been produced in accordance with the above cited provisions of the law.

Public Accounts and Investments place a premium on these principles, among others, and have been guided therein by them in the entire process that has capped into the production of this report.

6.0 CONFIDENTIALITY UNDERTAKING BY MEMBERS OF THE COMMITTEE AND ITS SECRETARIAT

Mr. Speaker Sir, to enhance the integrity of the Committee and its work, the Committee members and its Secretariat signed a confidentiality undertaking in accordance with Bungoma County Assembly Standing Order No. 82. Members have undertaken that in relation to the consideration of the Report of the Auditor- General on the County Executive of Bungoma for the year ended 30 June 2019, they will not disclose any matter relating to the proceedings of the said report that is classified as confidential which shall include any evidence or documents presented to the Committee and any information under discussion or deliberation at its meetings before it is tabled and deliberated on by the County Assembly.

7.0 COMMITTEE SITTINGS

Mr. Speaker Sir, The committee held a total of eight (8) sittings to consider the report of the Auditor-General on the financial statements of the County Executive of Bungoma for the year ended 30 June, 2022:

The Office of the Clerk to the County Assembly scheduled for the interrogation of the Executive on the 10th of September, 2024 at the County Assembly Pascal Nabwana Hall, where the Chief Officer for Finance and Economic Planning accompanied with departmental accounting officers appeared and were interrogated on the queries raised by the auditor

However, a major challenge that the committee encountered, from time to time, was the high level of unpreparedness involving some accounting officers who delayed to submit the evidences to the auditor for verifications hence causing delays which interrupted the committees work plan.

7.0 PROCEDURE ADOPTED BY THE COMMITTEE

Mr. Speaker Sir, with technical guidance from the Office of the Auditor-General, the Committee critically analyzed both oral and written submissions from the accounting officers who appeared before the Committee on **10th June, 2024** to respond to queries raised in the report of the Auditor- General.

Mr. Speaker Sir, this report contains the observations and recommendations of the Committee that were reached at by accord through detailed and accurate considerations, taking understanding of the fact that there is adequate machinery within the County Government to implement the recommendations contained in this report.

Allow me, **Honorable Speaker**, to applaud Honorable Members and the Secretariat of this Committee for their valuable commitment and exemplary work which made the interrogation exercise and the subsequent production of this report a major success.

8.0 ACKNOWLEDGMENT

Honorable Speaker, the Committee wishes to express its gratitude to your Office and that of the Clerk for the support rendered during the consideration of the report of the Auditor-General on the County Executive of Bungoma for the year ended 30 June, 2022. The Committee further wishes to thank the County Executive Committee Member for Finance, Chief Officers and Directors from various departments who appeared for their cooperation.

Finally, the Committee acknowledges the valuable input and services condensed by the Office of the Auditor-General and the logistical support offered by the secretariat of the committee in considering submissions from the management of various line Departments.

Mr. Speaker Sir, on behalf of the Public Accounts and Investments Committee, I now wish to table this report and urge the House to adopt it with the recommendations herein.

SIGNED...**DATE**..16/05/2024.......

HON. EVERTON NGANGA (CPA) MCA- EAST SANGALO WARD

(CHAIRMAN, PUBLIC ACCOUNTS AND INVESTIMENTS COMMITTEE).

CHAPTER TWO

9.0 THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE COUNTY EXECUTIVE OF BUNGOMA FOR THE YEAR ENDED 30 JUNE 2022

1 INTRODUCTION

Mr. Speaker Sir,

This audit report covers the financial year 2022/2023 and is issued in accordance with the requirements of Article 229 of the Constitution of Kenya. The auditor's report on the financial statements of the County Executive of Bungoma gave a qualified opinion based on the following:

Basis for Qualified Opinion

1. **Unconfirmed Cash and Cash Equivalents Balance**

The statement of assets and liabilities reflects a balance of Kshs.398,159,872 in respect of cash and cash equivalents which, as disclosed in Note 10A to the financial statements, comprises of balances in twenty-one (21) bank accounts maintained by the County Government.

However, bank reconciliation statements for six (6) bank accounts reflect receipts in cash book not recorded in bank statements totalling Kshs.911,792,018. No explanation was provided on why the receipts had not been banked as at 30 June, 2023. The Management did not also provide for audit review the subsequent dates when the receipts were finally banked.

Further, bank reconciliation statements for five (5) bank accounts reflect payments in cash book not in bank statements totaling Kshs.886,986,717. No explanation was provided on why the cheques had not been presented for payment as at 30 June, 2023. The Management did not also provide for audit review subsequent dates when the above payments were finally cleared.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.398,159,872 as at 30 June, 2023 could not be confirmed.

Management Responses

a) Receipts in Cash book not in Bank Statements – KShs. 911,792,017.50

The table below shows the receipts for the six bank accounts.

Appendix	Bank Account	Receipts (KShs.)
1a: July Bank Statement	Deposits Account	56,347,479.85
1b: July Bank Statement	Development Account	497,629,118.00
1c: July Bank Statement	NARIGP Account	13,000,000.00
1d: July Bank Statement	Recurrent Account	314,805,625.00
1e: July Bank Statement	KISIP	30,000,000.00
1f: July Bank Statement	DANIDA Balance	9,794.65
	Total	911,792,017.5

The receipts had not been banked at 30th June 2023 due to the delayed exchequer disbursement and requisition process to the Controller of budget caused the transactions to occur in the month of July 2023 as shown below;

Date	EFT No.	Amount (Kshs.)
20th June 23	FT231710T4CS	906,051,990.00
26th June 23	FT23177ZZZK5	852,754,815.00
27th June 23	FT23178DNZZX	30,000,000.00
03rd July 23	FT23184949ZP	17,439,563.00
05th July 23	FT23186R155S	11,000,000.00
TOTAL		1,817,246,368

The receipts had not been banked at 30th June 2023 due to the delayed exchequer disbursement and requisition process to the Controller of budget caused the transactions to occur in the month of July 2023 as shown below;

b). Payments in Cash book not in Bank Statements – Kshs. Kshs.886,986,717

The table below shows the payments for the five bank accounts.

Appendix	Bank Account	Receipts (KShs.)
1a: July Bank Statement	Deposits Account	3,885,544.65
1b: July Bank Statement	Development Account	535,032,285.20
1c: July Bank Statement	NARIGP Account	13,000,000.00
1d: July Bank Statement	Recurrent Account	332,272,661.80
1g: July Bank Statement	CLIMATE CHANGE FUND	2,796,225.65
	Total	886,986,717.30

Due to delayed Exchequer Disbursements from the National Government, payments were made in July 2023.

The bank statements attached shows the dates when payments were cleared.

Committee Observations

Un presented cheques and uncollected cheques were occasioned by late exchequer releases. The Bank reconciliation statement and the Bank statement provided indicate how the balances were cleared in the system.

Committee Recommendation

The cash and cash equivalent balances are confirmed.

2. **Compensation of Employees - Variances between Financial Statements and Integrated Personnel and Payroll Database (IPPD) Records.**

The statement of receipts and payments reflects an amount of Kshs.5,149,895,102 in respect of compensation of employees as disclosed in Note 3 to the financial statements. However, the Integrated Payroll and Personnel Database (IPPD) records reflect an amount of Kshs.4, 913,595,705 resulting to un-explained and reconciled balance of Kshs.236, 299,397.

Further, review of the payment schedule provided for audit review revealed variances in statutory deductions as tabulated below.

Description	**Financial Statements (Kshs.)**	**IPPD Records (Kshs.)**	**Variance (Kshs.)**
K.R.A	698,891,743	723,045,056	24,153,313
N.H.I.F	128,059,173	89,166,548	38,892,625

N.S.S.F	19,197,526	18,751,065	446,461
GOK PSS SCHEME	64,769,855	67,950,499	3,180,644
Provident Fund	483,962,439	541,577,065	57,614,626

In the circumstances, the accuracy and completeness of compensation of employee's amount of Kshs.5, 149,895,102 could not be confirmed.

Management Responses

a. Variance of Ksh. 236,299,397

The amount of Ksh. 236,299,397 is a net figure comprising of:

No.	Salary Component	AMOUNT (Kshs.)
i	Salary components processed outside IPPD	(415,016,478)
ii	Salary component processed through IPPD but not paid during the year	178,717,732
	Net variance	(236,299,397)

The analysis of the two components above is hereby attached **(Appendix 2a and 2b).**

b. Variances of Statutory deductions

The table below shows the variances as reported by the Auditor General.

This query was raised at the Draft level where management corrected the figures as shown below which was still not adjusted in the final report.

Description	**Financial Statements(Kshs)**	**IPPD Records(Kshs)**	**Variance (Kshs)**
K.R.A	755,532,940.05	720,179,076.00	35,353,864
N.H.I.F	90,241,430.00	85,073,650.00	5,167,780
N.S.S.F	19,272,425.80	16,144,095.80	3,128,330.00
GOK PSS SCHEME	55,198,595.75	67,164,119.50	-11,965,524
Provident Fund	475,708,535.25	536,524,531.15	-60,815,996

The variances are explained as follows;

a) KRA – KShs. 35,353,864

The variance is not an overpayment, but accounted for as follows;

Description	Amount(KShs.)
Paid tax due after KRA'S tax audit	30,000,000.00
Paid PAYE deductions in relation to hospitals	5,672,991.00

Less; Unremitted tax PAYE	(319,126.95)
Total	35,353,864.05

a) NHIF – KShs. 5,167,780 and NSSF – KShs. -3,128,330

These amounts were not processed through IPPD. They relate to casuals salaries.

b) GOK PSS Scheme – KShs. 11,965,524

The Financial statements are prepared on cash basis. This amount, though processed in IPPD, was not paid during the year.

c) Provident Fund – KShs. -60,815,996

The Financial statements are prepared on cash basis. This was employee pension that was processed in IPPD, but not paid during the year.

Committee observations

i. Documents were provided to confirm the reconciliation of the variance of Kshs. 236,299,397 between IPPD
ii. The committee further noted that Salary component processed through IPPD but not paid during the year hence leaving a variance of Kshs.178,717,732

Committee Recommendation

The variances between IPPD and the financial statements were verified and clarified. However the accounting officer should always ensure adherence to IPPD requirement's for making all the payments are through the IPPD.

3. Non-Current Assets

Records maintained by the County Executive of Bungoma indicate that between financial years 2017/2018 and 2021/2022, the County Government purchased a total of thirty-five (35) parcels of land valued at Kshs.18,700,000 and an additional eight (8) parcels in 2022/2023 financial year valued at Kshs.13,270,000. All the forty-three (43) parcels of land had been fully paid for as at 30 June, 2023. However, the County Government had not acquired title deeds for all the parcels valued at Kshs.31,970,000. In addition, the County Government did not budget for related administration costs to cover for valuation fees, survey fees, stamp duty, registration fees, laying of beacons and fencing charges.

Further, the County Government did not provide an updated asset register with details relating to date of purchase, cost, supplier, accumulated depreciation, location, unique identification number and net book value.

In the circumstances, the accuracy, completeness and ownership of the non-current assets valued at Kshs.25,067,147,680 shown in Annex 4 to the financial statements, could not be confirmed.

Management Responses

a) Lack of title deeds

The County Government has processed thirty six (12) title deeds and is committed to processing the remaining seven pieces. As per Appendix 3(a) – 12 Copies of title deeds

b) Lack of a budget administration costs to cover for valuation fees, survey fees, stamp duty, registration fees, laying of beacons, and fencing charges

In the current financial year 2024/2025, Kshs.4, 281,327 has been allocated for processing more title deeds and other related administrative costs. Management commits to process the title deeds in phases.
Appendix 3(b) – Extract of the Approved Budget.

c) Lack of updated assets register

See the attached Fixed Assets Register. Management is in the process to reviewing the asset register to reflect additional information such as supplier, accumulated depreciation and net book value in compliance with accrual accounting.
Appendix 3(d); Fixed Assets Register (Soft Copy)

Committee Observations

i. Title deeds for 12 pieces of purchased land were provided and verified. There is allocated a budget of Kshs. 4,281,327 for processing the remaining parcels of land.
ii. The County government has not maintained an updated Asset register. The fixed Asset register provided but is not comprehensive i.e It does not contain all the Land parcels in question

Committee Recommendations

i. The county government to ensure all properties purchased have the requisite property titles. The outstanding unprocessed titles to be fast tracked as per the budgeted amounts.

ii. The County government to maintain an updated Asset registers to reflect information relating to the supplier, accumulated depreciation and net book value as per the National treasury guidelines on Assets and Liabilities management. The County Assembly committee on finance and economic planning to follow up with the ministry to ensure this is implemented within 30 days of adoption of this report.

4. Accuracy of Deposits and Retentions Balance

The statement of assets and liabilities reflects a deposits and retentions balance of Kshs.268,028,338 as disclosed in Note 12 to the financial statements. However, Note10A on bank balances reflects a balance of Kshs.259,258,888 under deposits account resulting to a variance of Kshs.8,769,450 which has not been explained or reconciled.

In the circumstances, the accuracy and completeness of the deposits and retention balance of Kshs.268,028,338 could not be confirmed.

Management Responses

The variance of Kshs.8,769,449.85 relates to retention monies that were transferred to the County Revenue Fund Account before the year 2016/2017 when the Deposit Account became operational. Management will transfer these funds to Deposit account during the current Financial Year 2024/2025.

Appendix 4; Listing of transfers to CRF Account.

Committee observations

i. The Management provided the list and breakdown to the Deposit and Retention account. However, the Management has not refunded the money from County Revenue Fund to the Retention account.
ii. The County treasury did not provide the current bank statements to show the actual status of the deposits and retentions account.
iii. Failure to have the retention amounts refunded back to the account will render the contractors and service providers not paid their retention amounts after completion of projects. This will balloon the pending bills due to the County government.

Committee Recommendations

i. The County government to refund **Kshs. 8,769,449.85** to the deposit and retentions account so that its liabilities for retained amounts are fully provided for within 30 days from adoption of this report.
ii. The County Assembly committee on finance and economic planning to investigate the running balances of the County deposits and retentions account and report to the County Assembly within 60 days of adoption of this report.

5. Unsupported Expenditure on Routine Maintenance of Vehicles

The statement of receipts and payments reflects an amount of Kshs.2,476,788,733 in respect of use of goods and services as disclosed in Note 4 to the financial statements. Included in this amount is Kshs.73,904,394 relating to routine maintenance - vehicles and other transport equipment. However, logbooks for services, repairs and maintenance undertaken were not provided for audit review. In addition, invoices, local services orders and requisitions were not provided for audit review.

In the circumstances, the propriety and accuracy of the expenditure of Kshs.73, 904,394 relating to routine maintenance – vehicles and other transport equipment could not be confirmed.

Management Responses

The management submitted copies of Payment Vouchers containing invoices, local services orders and requisition. Amounting to Kshs. 6 verification.

APPENDIX 4 b refers

Committee Observations

The accounting officer availed the payment supporting documents amounting to Kshs.. 6,498,303 out of the sum of Kshs. 73,904,394 thus leaving a variance of Ksh 67,406,092.75 which is not accounted for

Committee recommendation

The Public Accounts and investment's committee finds the query unsatisfactorily addressed. The committee recommends to be given more time to conclude on the investigations on this matter and report back to this house within 30 days from the date of adoption of this report.

Basis for Qualified Opinion

6. Unconfirmed Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects a balance of Kshs.398,159,872 in respect of cash and cash equivalents which, as disclosed in Note 10A to the financial statements, comprises of balances in twenty-one (21) bank accounts maintained by the County Government.

However, bank reconciliation statements for six (6) bank accounts reflect receipts in cash book not recorded in bank statements totalling Kshs.911,792,018. No explanation was provided on why the receipts had not been banked as at 30 June, 2023. The Management did not also provide for audit review the subsequent dates when the receipts were finally banked.

Further, bank reconciliation statements for five (5) bank accounts reflect payments in cash book not in bank statements totalling Kshs.886,986,717. No explanation was provided on why the cheques had not been presented for payment as at 30 June, 2023.

The Management did not also provide for audit review subsequent dates when the above payments were finally cleared.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.398,159,872 as at 30 June, 2023 could not be confirmed.

Management Responses

b) Receipts in Cash book not in Bank Statements – KShs. 911,792,017.50

The table below shows the receipts for the six bank accounts.

The receipts had not been banked at 30th June 2023 due to the delayed exchequer disbursement and requisition process to the Controller of budget caused the transactions to occur in the month of July 2023 as shown below;

b). Payments in Cash book not in Bank Statements – Kshs. Kshs.886,986,717

The table below shows the payments for the five bank accounts.

Insert table

Due to delayed Exchequer Disbursements from the National Government, payments were made in July 2023.

The bank statements attached shows the dates when payments were cleared.

Committee Observations

presented cheques and uncollected cheques were occasioned by late exchequer releases. The Bank reconciliation statement and the Bank statement provided indicate how the balances were cleared in the system.

Committee Recommendation

The cash and cash equivalent balances are hereby confirmed

7. **Compensation of Employees - Variances between Financial Statements and Integrated Personnel and Payroll Database (IPPD) Records.**

The statement of receipts and payments reflects an amount of Kshs.5,149,895,102 in respect of compensation of employees as disclosed in Note 3 to the financial statements. However, the Integrated Payroll and Personnel Database (IPPD) records reflect an amount of Kshs.4,913,595,705 resulting to un-explained and unreconciled balance of Kshs.236,299,397.

Further, review of the payment schedule provided for audit review revealed variances in statutory deductions as tabulated below.

Insert table

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.5,149,895,102 could not be confirmed.

Management Responses

c. **Variance of Ksh. 236,299,397**

The amount of Ksh. 236,299,397 is a net figure comprising of:

The analysis of the two components above is hereby attached **(Appendix 2a and 2b).**

d. **Variances of Statutory deductions**

The table below shows the variances as reported by the Auditor General.

This query was raised at the Draft level where management corrected the figures as shown below which was still not adjusted in the final report.

The variances are explained as follows;

b) **KRA – KShs. 35,353,864**

The variance is not an overpayment, but accounted for as follows;

Description	Amount(KShs.)
Paid tax due after KRA'S tax audit	30,000,000.00
Paid PAYE deductions in relation to hospitals	5,672,991.00
Less; Unremitted tax PAYE	(319,126.95)
Total	**35,353,864.05**

d) NHIF – KShs. 5,167,780 and NSSF – KShs. -3,128,330

These amounts were not processed through IPPD. They relate to casuals salaries.

e) GOK PSS Scheme – KShs. 11,965,524

The Financial statements are prepared on cash basis. This amount, though processed in IPPD, was not paid during the year.

f) Provident Fund – KShs. -60,815,996

The Financial statements are prepared on cash basis. This was employee pension that was processed in IPPD, but not paid during the year.

Committee observations

Documents provided to confirm the reconciliation of the variance of Kshs. 236,299,397 between IPPD and financial statements. Schedules supporting financial statements were provided and verified.

Committee Recommendation

The variances between IPPD and the financial statements were verified and clarified.

8. Non-Current Assets

Records maintained by the County Executive of Bungoma indicate that between financial years 2017/2018 and 2021/2022, the County Government purchased a total of thirty-five (35) parcels of land valued at Kshs.18,700,000 and an additional eight (8) parcels in 2022/2023 financial year valued at Kshs.13,270,000. All the forty-three (43) parcels of land had been fully paid for as at 30 June, 2023. However, the County Government had not acquired title deeds for all the parcels valued at Kshs.31,970,000. In addition, the County Government did not budget for related administration costs to cover for valuation fees, survey fees, stamp duty, registration fees, laying of beacons and fencing charges.

Further, the County Government did not provide an updated asset register with details relating to date of purchase, cost, supplier, accumulated depreciation, location, unique identification number and net book value.

In the circumstances, the accuracy, completeness and ownership of the non-current assets valued at Kshs.25,067,147,680 shown in Annex 4 to the financial statements, could not be confirmed.

Management Responses

d) Lack of title deeds

The County Government has processed thirty six (12) title deeds and is committed to processing the remaining seven pieces. As per Appendix 3(a) – 12 Copies of title deeds

UN SUPPORTED EXPENDITURE ON ROUTINE MAINTENANCE

The statement of receipts and payments reflects an amount of Kshs.2,476,788,733 in respect of use of goods and services as disclosed in Note 4 to the financial statements. Included in this amount is Kshs.73,904,394 relating to routine maintenance - vehicles and other transport equipment. However, logbooks for services, repairs and maintenance undertaken were not provided for audit review. In addition, invoices, local services orders and requisitions were not provided for audit review.

In the circumstances, the propriety and accuracy of the expenditure of Kshs.73, 904,394 relating to routine maintenance – vehicles and other transport equipment could not be confirmed.

Management response

The management submitted supporting documents amounting to ksh Kshs.73, 904,394 in relation to the payment of routine maintenance – vehicles and other transport equipment **Appendix 23**

Committee observation

The committee scrutinized the documents availed and confirmed the confirmed the query addressed

BUDGETARY CONTROL AND PERFORMANCE

Audit findings

The statement of comparison of budget and actual amounts: recurrent and development combined reflects final receipts budget and actual on comparable basis amounts of Kshs.12,864,899,018 and Kshs.11,078,876,881 respectively, resulting to under-funding of Kshs.1,786,022,137 or 14% of the budget. Similarly, the statement reflects actual expenditure of Kshs.10,957,014,181 against approved budget of Kshs.12,864,899,018 resulting to under-performance of Kshs.1,907,884,837 or 15% of the budget.

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

Management response

The accounting officer submitted that:

a) **Underfunding of the budget;**

i) The under-funding of the budget was mainly caused by underfunding for the donor funded Programmes as indicated below. The under-funding of the donor-funded programmes affected budget absorption for Other Grants and transfers which stood at 44%.

Programme	Budget (KShs.)	Actual(KShs.)	Variance(KShs.
NARIGP	183,355,896	167,273,890	16,082,006.00
ASDSP II	9,615,952	5,344,642.00	4,271,310.00
Kenya Urban support Programme	882,648,919	3,534,474.20	879,114,444.80
Kenya Informal settlement improvement project (KISIP 11)	86,424,018	30,000,000.00	56,424,018.00
(IDA) World Bank Credit-Financing locally Led climate programme (FFLoCA)1 CCIS Grant	136,000,000	22,000,000.00	114,000,000.00
TOTAL	1,298,044,785	228,153,006	1,069,891,779

ii) KShs. 110,000,000 for medical equipment that is deducted at source by the National Government

b) Delay in receipt of Exchequer Releases.

The County Government received KShs. 1,817,246,368 into the Revenue Fund Account between 20th June, 2023 and 5th July, 2023 as indicated below. The time was not sufficient for the timely clearance of the pending payments hence the historical issue.

Date	EFT No.	Amount(KShs.)
20-Jun-23	FT231710T4CS	906,051,990.00
26-Jun-23	FT23177ZZZK5	852,754,815.00
27-Jun-23	FT23178DNZZX	30,000,000.00
03-Jul-23	FT23184949ZP	17,439,563.00
05-Jul-23	FT23186R155S	11,000,000.00
Total	1,817,246,368	

Appendix 6; Extract of the CRF Bank Statement (20th June – 5th July, 2023)

Oral Submissions

The accounting officer submitted that the under-funding of the budget was mainly caused by underfunding for the donor funded Programmes which affected budget absorption for Other Grants and transfers

Committee observation

The underperformance was caused by underfunding of donor funded programmes and delayed transfers from the CRF accounts due to the delayed ex chequer releases.

Recommendation

The committee recommends to the Senate to intervene matters of budgetary control by pursuing with the National Treasury, likewise the Council of Governors should also take up the matter to reach at a workable solution on the delayed release of exchequer

PENDING BILLS

Audit Findings

Note 1 under Other Important Disclosures reflects a balance of Kshs.1, 244,506,681 in respect of pending accounts payable. Included in this amount is a brought forward balance of Kshs.1,199,306,317, additions during the year of Kshs.729,082,458 and payments during the year of Kshs.683,882,094. No explanation was provided on the failure to clear the long outstanding bills brought forward, which relate to the period between 2015/2016 and 2021/2022.

Had the bills been paid and settled during the financial year under review, the statement of receipts and payments would have reflected an enhanced deficit of Kshs.1,468,792,790 instead of the deficit of Kshs.224,286,109 reflected.

Failure to settle bills during the year in which they are incurred distorts the financial statements for that year and adversely affects the budgetary provisions of the subsequent year. The opinion is however, not modified in respect of these matters.

Management response Management Response

The pending bills as at 30th June 2023 was Ksh.1,244, 506,681. The County Government has cleared pending bills of Ksh. 307,365,104 The balance of eligible pending bills will be partly paid in the current Financial Year.

Appendix 7: Pending Bills Status Report

Oral Submission

The accounting officer submitted that the County Government had made an endeavor to clear the pending bills by paying Kshs. 307, 365, 104 out of the outstanding Kshs. 1,244, 506,681. Leaving the balance of Kshs. 937, 141.579. The accounting promised to give a repayment plan. That the County Government had budgeted for the pending bills in the FY 2024/2025

Committee observation

The accounting officer could not give the repayment plan for the remaining amounts of Kshs 937, 141.579 on the pending bills

Committee recommendation

The committee recommends that the accounting officer should prepare the repayment plan for the balance of Ksh 937.141.579 and further the sectoral committee of Finance and economic planning to make a follow up and report back to the house within 30 days from the adoption of this report.

The committee recommends to the finance committee to follow up with the department of finance and establish the actual total amount owed on pending bills. This should be reported back in the house within 30 days after adoption of this report

The County Government should ensure that all verified pending bills are cleared before the end of financial year 2024/2025 and sufficient budgetary provisions should be made to facilitate the payments. These is in relation to the provision of regulation 41(2) and (3) of the PFMA Regulations ,2025 which require the County Governments to prepare payment plans and prioritize all pending bills as a first charge on the County revenue fund

(3) The County Government should further ensure that only pending bills contained in the procurement plans are considered for payment pursuant to the provisions of section 50 (2) and (3) of PFMA Regulation, 2015 .This is in relation to the Senate resolution dated 9th May, 2024 on clearance of pending bills in the counties.

UNRESOLVED PRIOR YEAR MATTERS

Audit Findings

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided satisfactory reasons for the delay in resolving the issues.

Management response

The accounting officer stated that, as disclosed under the progress on follow up of auditor's recommendations section of the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2023. Management has not provided satisfactory reasons for the delay in resolving the issues.

Status of un resolved prior year matters;

Category	2021-2022	2020-2021	Total
Resolved	6	5	11
Partially resolved	6	12	18
Not resolved	2	11	13
Total	14	28	42

The unresolved and partially resolved issues have been prioritized for progressive resolution as detailed in the Comment Section of the Appendix.

Appendix 8: Status of Prior Year Matters

Oral submission

The accounting officer submitted that there's a shortfall of personnel i.e accountants thus tracking Back the work of the department including addressing the recommendations on the audit reports

Committee observations

The committee notes that outstanding issues have not been fully resolved by the County Executive and most of the issues outstanding are long overdue.

Pursuant to section 53 of the public audit Act, the accounting officer is to submit to this house resolutions of how they have resolved on all outstanding prior year audit matters within 90 days after consideration of this report, failure to which the accounting officers will be in contempt of this house.

EXCESS WAGE BILL

Audit findings

The statement of receipts and payments reflects expenditure of Kshs.5,149,895,102 in respect of compensation of employees which represents 48% of the total receipts for the year of Kshs.10,732,728,072. This is contrary to Section 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015, which states that total expenditure on the wage bill for County Governments should not exceed thirty-five (35) percent of the County Government's total revenue.

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

Management response

The accounting officer in the response stated that the wage bill had been occasioned by the following factors:

i. Annual salary increments as per the employee job scales;

ii. Implementation of the Collective Bargaining Agreement for the Health Personnel in the year 2017/2018;

iii. Conversion of the terms of employment of the ECDE teachers from contractual to permanent in the year 2018;

iv. Conversion of the terms of employment of the casual employees to permanent in the year 2017/2018;

v. Phased Implementation of Salary Increments for the staff of the County Executive as per the various SRC Circulars.

vi. Recruitment that has been made over time since 2013 to fill in positions that lack critical technical officers;

vii. Absorption of officers of the defunct local authorities;

viii. Implementation of the Civil Servants Superannuation Scheme from the year 2020.

Action – In view of the foregoing, the County Executive Committee on has undertaken the following initiatives to progressively reduce the wage bill;

a) The County Government undertaken a head county and is in the process of finalizing the report. Unverified staff shall be removed from payroll

b) The County Government is undertaking verification of the academic and professional certificates of the officers. Deviant cases shall also be removed from payroll

c) The County Government is undertaking skills audit in order to identify the skills in its inventories and inform future recruitment decisions

d) As an intervening action, the County only recruits technical officers;

e) All staffing plans shall be approved by the County Executive Committee before submission to the County Public Service Board

f) The County will strive to increase its own source revenue and engage development partners to expand the resource envelope.

Appendix 9(a); Circularization for head count, verification of certificates and skills audit

Appendix 9(b); Measures taken to increase own source revenue

Accounts Receivable - Outstanding Imprests and Advances

The statement of assets and liabilities reflects an accounts receivable - outstanding imprests and advances balance of Kshs.30,994,011 which, as disclosed in Note 11 to the financial statements, relates to Government imprest. Included in this amount is a balance of Kshs.26,494,350 relating to the period between 2016/2017 and 2021/2022 financial years. No explanation was provided for the failure to clear the long outstanding imprest balances. This is contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires a holder of a temporary imprest to surrender or account for the imprest within seven (7) days after returning to duty station.

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

Management Response:

The Management in the written submission stated that the high wage bill had been occasioned by a number of factors as follows:

i. That the Annual salary increments implemented as per the employee job scales;

ii. Implementation of the Collective Bargaining Agreement for the Health Personnel in the year 2017/2018;

iii. Conversion of the terms of employment of the ECDE teachers from contractual to permanent in the year 2018;

iv. Conversion of the terms of employment of the casual employees to permanent in the year 2017/2018;

v. Phased Implementation of Salary Increments for the staff of the County Executive as per the various SRC Circulars.

vi. Recruitment that has been made over time since 2013 to fill in positions that lack critical technical officers;

vii. Absorption of officers of the defunct local authorities;

viii. Implementation of the Civil Servants Superannuation Scheme from the year 2020.

That in view of the foregoing, the County Executive Committee had undertaken the initiatives to progressively reduce the wage bill as follows;

a) The County Government had undertaken a head county and was in the process of finalizing the report after which the unverified staff shall be removed from payroll.

b) The County Government is undertaking verification of the academic and professional certificates of the officers. Deviant cases shall also be removed from payroll

c) The County Government is undertaking skills audit in order to identify the skills in its inventories and inform future recruitment decisions

d) As an intervening action, the County only recruits technical officers;

e) All staffing plans shall be approved by the County Executive Committee before submission to the County Public Service Board

f) The County will strive to increase its own source revenue and engage development partners to expand the resource envelope.

Appendix 9(a); Circularization for head count, verification of certificates and skills audit

Appendix 9(b); Measures taken to increase own source revenue

Oral submission

The accounting officer stated that the matter of wage bill had turned difficult to comply with due a number of factors which include annual salary increments, implementation of the collective bargaining agreements, conversion of the terms of service of the ECDE teachers to permanent terms etc

Committee observation

The committee finds the matter of excess wage bill difficult to be addressed in a short term

Committee recommendation

The County Government should comply with the provision of PFMA regulations 25 (1) (a) and (b) on adherence to one third rule

ACCOUNTS RECEIVABLE - OUTSTANDING IMPRESTS AND ADVANCES

Audit Findings

A The statement of assets and liabilities reflects an accounts receivable - outstanding imprests and advances balance of Kshs.30,994,011 which, as disclosed in Note 11 to the financial statements, relates to Government imprest. Included in this amount is a balance of Kshs.26,494,350 relating to the period between 2016/2017 and 2021/2022 financial years. No explanation was provided for the failure to clear the long outstanding imprest balances. This is contrary to Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which requires a holder of a temporary imprest to surrender or account for the imprest within seven (7) days after returning to duty station.

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

Management Response

Management had ensured compliance with Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015 on accounting of imprest. The current status and action taken is as follows;

Category	Amount(Kshs.)
Surrendered	12,417,320
Civil proceedings have been instituted for imprest recovery for officers who have exited service	6,314,580
Taken by EACC	7,681,650
Instructions issued for recovery	2,220,461
To be surrendered	2,360,000
Total	30,994,011

Appendix 10(a): Analysis of Outstanding Imprest

Appendix 10(b): Instructions for civil recovery

Appendix 10(c); Inventory of documents taken by EACC

Appendix 10(d): Instructions for payroll recovery

Appendix 10(e); Imprest to be surrendered

Oral submission

The accounting officer stated that the imprests totaled to Kshs. 30,994,011 and only 12,417,320 had been submitted leaving a balance of Kshs. 18,576,691 out of which

Documents taken by EACC Kshs. 7,681,650

Imprest holders who have exited service Kshs. 6,314,580

Committee observation

The accounting officer had failed to submit the supporting documents for the surrender of imprest of Kshs. 4,580,461 and likewise the instructions and evidence for payroll recovery were not provided

The imprests outstanding have been recurring all along in the previous financial year's

Committee recommendation

That the accounting officer having failed to implement the resolutions of the house on the outstanding imprests in the audit reports of FY 2020/2021 and 2021/2022 as per the regulation 93(6) and (7) which states that;

In the event of the imprest holder failing to account for or surrender the imprest on the due date, the accounting officer shall take immediate action to recover the full amount from the salary of the defaulting officer with interest at the prevailing central bank rates. Failure by the accounting officer to recover the temporary officer as provided for in this regulation he or she commits an offence as provided under the Act.

Section 53 of the Public Audit Act,2015 provides that ;

i. (a)The relevant accounting officer of the a state organ or public entity shall within 3 months after parliament has considered and made recommendations on the audit report, take the relevant steps to implement the recommendations of the parliament on the report of the auditor general or
   (a)Give explanations to the parliament on why the report has not been acted upon

ii. Failure to comply with the provisions of sub section (i) , the accounting officer shall be in contempt of Parliament or the County Assembly and upon determination by Parliament or relevant County Assembly ,Parliament or County Assembly may recommend administrative sanctions i.e removal as an accounting officer , reduction in rank among others. Consequently the accounting officer is in contempt of the resolutions of the County Assembly and this committee recommends administrative sanctions in reduction in rank to the accounting officer so as to pave way for appointment of a competent accounting officer to implement resolution of the house.

In this regard the committee on implementation committee pursuant to S.O. 212 and report back to the house.

PAYMENT OF SALARIES OUTSIDE THE INTEGRATED PERSONNEL AND PAYROLL

Audit findings

The statement of receipts and payments reflects an amount of Kshs.5, 149, 895,102 in respect of compensation of employees. Included in this amount is Kshs.1, 838, 448 being salaries paid to an average of four (4) employees per month outside the Integrated Personnel and Payroll Database (IPPD). This was contrary to Section 1.5.1 of the National Treasury Financial Accounting Recording and Reporting Manual which provides that personnel emoluments of County Government staff should be paid through IPPD.

In the circumstances, Management was in breach of law.

Management Response:

The accounting officer submitted that all staff are paid through IPPD System except for the following categories of circumstances;

1. Security officers (Paid by National Government) attached to The Governor and Deputy Governor who are paid Top Up allowances. The County Government has adopted the Parliamentary Service Commission's Internal Memo Ref. No. Dir/Admin/Pers Vol. II dated 12th September, 2008

Appendix 12 (a); PSC's Internal Memo Ref. No. Dir/Admin/Pers Vol. II dated 12th September, 2008

2. In case of any officer who has exited service through natural attrition, details are immediately removed from the IPPD system. While paying terminal benefits, manual payroll is used.

3. In case where an officer who has resigned from service, the County Government will process salary arrears if any through manual payroll.

Appendix 12(b); Listing of Officers paid out of IPPD and reasons thereof.

Committee Observations

That the top up payments to security Officers seconded to the Governor and Deputy Governor were the ones reflected outside the IPPD

Committee recommendations

The issue is therefore addressed

INELIGIBLE PAYMENTS TO MEMBERS OF THE PUBLIC SERVICE BOARD

Audit findings

The statement of receipts and payments reflects an amount of Kshs.5,149,895,102 in respect of compensation of employees which, as disclosed in Note 3 to the financial statements, includes Kshs.4,634,506,241 being payment for basic salaries of permanent employees. Out of this amount, Kshs.620,000 was incurred on basic salary and allowances for the Chairperson and members of the County Public Service Board during the year under review while Kshs.780,000 was also paid to them as transport (commuter) allowances. It was not explained why the members were paid the allowance, while they serve on full time basis, contrary to the provisions of Salaries Remuneration Commission circular SRC/TS/CGOVT/3/61 Vol. IV (49) dated 8 December, 2017 which highlights benefits and allowances payable to members of County Public Service Board.

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

Management response

The accounting officer in his submission stated that the Chairperson and the Members of the Board have not be allocated official vehicles due to limited vehicles in the County. Therefore, allowance is paid as per SRC Circular Ref. No. SRC/TS/CGOVT/3/61(52) dated 10th July, 2013. The Management has taken note of the concern and a corrective action has since been initiated.

Appendix 13; SRC Circular Ref. No. SRC/TS/CGOVT/3/61(52) dated 10th July, 2013

Oral Submissions

The accounting officer presented the SRC Circular No. SRC/TS/CGOVT/3/61(52) dated 10th July, 2013 justifying the payments of members of the County Public Service Board

Committee observations

The allowance paid was in compliance with SRC Circular No. SRC/TS/CGOVT/3/61(52) dated 10th July, 2013 which was not provided. The Circular provided No. SRC/TS/29(94) of 10 Nov. 2023 does not support such payment.

Committee recommendation

The issue is there not addressed, failure to Insure County Government Buildings and Structures

FAILURE TO INSURE COUNTY GOVERNMENT BUILDINGS AND STRUCTURES

Audit findings

Annex 4 to the financial statements on summary of non – current assets register reflects a balance of Kshs.25,067,147,680 in respect of assets which includes Kshs.969,886,225 relating to buildings and structures. However, no evidence was provided to confirm that the County Government insured the buildings and structures to mitigate against loss in case of disaster, contrary to Section 162(2)(c) of the Public Finance Management Act, 2012, which requires public officers to ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property and use the officer's best efforts to prevent any damage from being done to the financial interests of the County Government.

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

Management Response:

The decision on whether to insure non-current assets is guided by risk exposure, cost-benefit criteria and the legal requirements. In the category of non-current assets, only Motor Vehicles are mandatorily required to be insured as provided in Sec. 7.2.2.1 of the County Financial Accounting and Reporting Manual, 2015 and Sec. 4 of the Insurance (Motor Vehicles Third Party Risks) Act, 2012.

The other non-current assets are to be guided by risk exposure and cost-benefit criteria as provided for in Paragraph 80 of the Paragraph National Treasury's General Guidelines on Assets and Liabilities Management in the Public Sector, 2020. The Management believes that the risk exposure for buildings is minimal as it has not experienced any risk incident since the year 2013. In view of this, the Management believes that it would not be cost-beneficial to insure buildings. In this case, self-insurance is considered a better risk treatment option.

Meanwhile, Management has employed the following measures aimed at ensuring that there is proper use, custody, safeguarding and maintenance of public property:

a) Deployment of security guards in all county government buildings

b) Ensuring the officers use the assets in a responsible manner

c) Regular maintenance of buildings

Appendix 14: National Treasury's General Guidelines on Assets and Liabilities

Oral submission

The accounting officer submitted that the Management believes that the risk exposure for buildings is minimal as it has not experienced any risk incident since the year 2013.

Committee Observations

The accounting proved negligent on ensuring proper safeguards for County Government Assets in accordance to section 162 (2)(c) of the PFMA which requires that public officers shall ensure that adequate arrangements are made for the proper use custody and maintenance of public property and the officer shall use best efforts to prevent any damage for being done from the financial interests of the County Government.

Committee recommendation

That the County Government should purpose to budget adequately for insurance of County Government Assets and ensure that public sector Assets are adequately protected. Assets to be insured in accordance with guidelines issued by the National

Treasury under the general guidelines on Asset and liability management in the public sector of March 2020

Voided transactions

REPORT OF THE AUDITOR GENERAL ON COUNTY REVENUE FUND FOR THE YEAR ENDED 30TH JUNE, 2023-COUNTY GOVERNMENT OF BUNGOMA

Audit Findings

1. **Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.14,026,308,243 and Kshs.11,247,736,528 respectively, resulting to under-funding of Kshs.2,778,571,715 or 20% of the budget.

Similarly, the statement reflects total actual payments (transfers) of Kshs.11,863,518,430 against approved budget of Kshs.14,026,308,243 resulting to under-performance of Kshs.2,162,789,813 or 15% of the budget.

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

Management Response

a) Under-funding

The under-funding of ksh 2,778,571,715 includes opening equitable share brought forward of Ksh. 867,288,525. The reporting templates do not provide for opening balances. The County Government did not receive donor funding of Ksh. 1,400,443,818. Failure to achieve of own source revenue targets contributed to the under-funding. The analysis of under-funding is provided in the table below.

Receipts/Payments	Final Budget	Actual on Comparable Basis	Budget Realization Difference
Receipts	KShs.	KShs.	KShs.
Exchequer releases	11,820,149,621	10,659,435,192	1,160,714,429
Transfer from other government agencies(Donor Funds)	1,657,206,137	256,762,319	1,400,443,818
Own Source Revenue	548,952,485	330,427,054	218,525,431
Return to CRF Issues	-	1,111,963	(1,111,963)
Total Receipts	14,026,308,243	11,247,736,528	2, 778,571,715

b) Own Source Revenue shortfall – Ksh. 218,525,431

The County Government missed own source revenue targets by Ksh. 387,518,655. This was caused by:

i. Legislative gaps in revenue administration.
ii. General Elections of August 2022
iii. The covid-19 after effects.

Measures to Enhance own Source Revenue Receipts

1. The County Government has enacted revenue support legislation to strengthen the legal framework. The County Government has further enacted bills to strengthen the own source revenue legal framework. The bills have been submitted to County Assembly for legislative processing. They include:
    i. Bungoma County Livestock Sale Yard Bill, 2024
    ii. Bungoma County Food Safety Co-ordination Bill, 2024
    iii. Bungoma Agricultural Institutional Development Bill, 2024
    iv. Bungoma County Environmental Health and Sanitation Bill, 2024
2. The County Government has rolled out Hospital Management System to all level 4 and 5 health facilities. The system is having robust controls that will minimize revenue leakages in hospitals.
3. The department of Finance and Economic Planning has introduced measures to enhance and account for own source revenue. The department has mapped and decentralized revenue to the departments. An executive order has been issued to this effect. The respective chief Officers have been appointed as collectors of revenue.
4. The County Executive committee member for Finance and Economic Planning has issued a Revenue Policy Statement and revenue guideline. Included in the measures are implementation of a cashless payments to minimize cash handling. This will further reduce revenue administrative cost.
5. The County Government has granted waivers on outstanding interest and penalties as an incentive to property rates defaulters.
6. The County Government has re-structured most of its revenue streams to stop pilferage and enhance collection efficiency. Restructuring of market entry fees underway.
7. The County Executive Committee has approved the memorandum from the department of lands, urban physical planning and municipalities to waiver the accrued interest and penalties on land rates on all rateable properties
8. The department has procured thirty-three motor cycles to enhance field revenue supervision.

c) Leasing of Medical Equipment

Under-performance was further contributed by amounts allocated for leasing of medical equipment which is deducted at source. This amount is not included in the payments.

Action

1. The County Government through the Council of Governors will continue to advocate for timely disbursement of budgeted donor funds,

2. The County Government has instituted aggressive measures to enhance own source revenue. The measures are highlighted in the Revenue Policy Statement and the Decentralization of Revenue Guideline.

Appendix 1a: Revenue Policy Statement

Oral Response

The chief Officer highlighted that during the year under review, The County Government collected own source revenue amounting to 279 million. The underfunding resulted from the failure to attain own source revenue targets and by amounts allocated for leasing of medical equipment which is deducted at source. The county government missed out on the own-source revenue targets as a result of the legislative gaps in revenue administration, 2022 general elections and the covid-19 effects. A revenue policy statement has been submitted for review by the committee and it highlights aggressive measures put in place to enhance own source revenue.

Committee Observations

1. A Policy Revenue Statement was submitted to the committee for review
2. Decentralization of Revenue Guideline Executive Order No.1 of 2022 was submitted to the committee.
3. The own source revenue amount of 279million highlighted to have been collected by the chief officer Finance differed with the amounts of 330million highlighted in the financial statements

Committee Recommendations

The committee delegated to the committee of Finance and Economic Planning to conduct a fact finding on the exact amount collected from own source revenue for the year under review, and establish why different amounts are indicated as own source revenue collected.

13.Construction of Kanduyi- Sangalo Junction Road to Dual Carriage Way

A local contractor was awarded a contract for construction of Kanduyi-Sang'alo junction road to dual carriage-way, a distance of 6.5 kilometers, at a contract sum of Kshs.1,382,442,976. The contract agreement was signed on 15 January, 2019 with a commencement date of 12 July, 2019. The scope of works included site clearance, top soil stripping, earthwork, excavation and filling for structures, culverts and drainage works, passage of traffic, natural material subbase and base, cement and lime treatment, bituminous surface treatment and surface dressing, bituminous mix bass, binder courses, concrete work, road furniture, sexually transmitted diseases and HIV/AIDS prevention awareness and education post. The project took a period of 24 months, and was certified to be substantially complete on 20 July, 2022.

However, a physical inspection conducted on 20 September, 2023 revealed that the works were not complete and the contractor was not on site. The following critical works which were part of the bills of quantities were not done: road furniture, street lighting and bituminous surface treatment and surface dressing.

In the circumstances, value for money was not obtained from the project.

Management Response

At the time of physical inspection, the project had been substantially complete (at 90%). The contractor had not abandoned the site but had reduced activities on the road due to unpaid certified works amounting to Kshs. 338 million.

The pending bill shall progressively be settled in the year 2024/2025 to allow for the completion of the remaining works.

Appendix 20; Extract of 2024/2025 Approved Budget

COMMITTEE OBSERVATIONS

The committee made the following observations;

(i)Management response indicates that the project is not complete

(ii)The Contractor failed to complete the project as planned due to outstanding unpaid certified works amounting to ksh.338M

(iii)Several critical works which were part of the Bills of quantities had not been done as at the time of the audit

(iv)The outstanding payments owed to the contractor have been attracting/accruing interest as per the conditions of the contract agreement and the employer is at risk of being charged for defaulting on payment

COMMITTEE RECOMMENDATIONS

1.The department should ensure that all outstanding payments owed to the contractor are fully paid to avoid/forestall accrual of interest on delayed payments and unnecessary instances of litigation for defaulted payment by the contractor

2.It is further recommended that the department should budget for sufficient funds towards the project to cover for the challenges of global inflation and accrued interest on defaulted payment so as to fastrack completion of the project and a smooth handing over to KeNHA.

3.The department should consider carrying out negotiations with the contractor on the issue of settlement of the accrued penalties that arose from defaulted payments

4.The accounting officer should put measures in place and ensure that in future, all billed works supported by interim certificates are settled on time to forestall accrual of unnecessary penalties.

5.The sector committee on Roads, Infrastructure,Transport and Public works to take up the matter after (30) days from the date of adoption of this report.

14.Construction of Misikhu - Naitiri - Brigadier Road

A local contractor was awarded a contract for the upgrading of Misikhu-Naitiri-Brigadier road, a distance of 39 Km, at a contract sum of Kshs.1,115,939,198. The scope of works included: site clearance and demolition, earth works, excavation and filling for structures, culverts and drainage works, passage of traffic, natural material base and sub-base, bituminous surface treatment and surfaces dressing, concrete works, road furniture repair and maintenances, which was expected to take a period of 24 months. The expected completion date was 30 June, 2021 after several extensions of the contract period. A total of Kshs.621,138,926 or 56% of the contract sum had been paid to the contractor as at 21 September, 2023.

However, a physical inspection conducted on 21 September, 2023 revealed that the contractor had only done 20 Km of the road, out of which 13 Km of the section done had started developing potholes in most of the parts even before the works were completed.

In the circumstances, value for money was not obtained from the project

Management Response

The County Government experienced funding challenges that affected the progress of the project. This informed the intervention by the National Government to undertake the completion of the remaining kilometres of the road from Naitiri to Misikhu (19 Kilometres).

Appendix 21(a); Minutes

The road had developed pot holes as it was initially designed to be a low volume road. However, due to the generated traffic arising from new developments in Naitiri such as establishment of Naitiri sugar factory that deals in hauling of cane and transportation of processed sugar and its by-products, heavy axle load led to deterioration of the road.

Appendix 21(b); Extract of the Approved BoQ

The National Government through KERRA advertised for the road (its section) to bitumen standard (Asphalt Concrete) pavement to address the heavy load. To address the distress on the road, the County Government has engaged a new contractor to upgrade its section to bitumen standards.

Appendix 21(c); Advertisement by KeRRA and photos

Appendix 21(d); Contract for upgrading the road to bituminous standards

Management oral submissions

In its oral submissions, the management clarified as follows;

(a)The 56% percent(ksh.621,138,926.17), relates to the percentage of the contract sum that has been processed for payment towards 63.64% percent of work done.

(b)The section of the road that had started developing potholes as per the physical verification conducted on 21st Sept,2023 was attributed to new developments at Naitiri following the establishment of Naitiri sugar Factory that deals in hauling of cane and transportation of processed sugar and its by-products, heavy traffic and heavy axle load

(c) To address the deteroriating sections of the road, the National Government through KeRRA, advertised for the road(its section) to be upgraded to bitumen standards and (Asphalt concrete) pavement.

(d)Similarly ,on its part, the County Government has engaged a new contractor to upgrade its section to bitumen standards

COMMITTEE OBSERVATIONS

(i)According to the Management response the road has not been completed due to the complexities of co- funding which has since been resolved between the two levels of Governments.

(ii)Due to the above, the project was not delivered as per the Contract agreement

(ii) The 56% percent(ksh.621,138,926.17), relates to the percentage of the contract sum that had been processed for payment towards 63.64% percent of works done.

(iii)The earlier agreement on the road was withdrawn by KeRRA and the current status is that the National Government through KeRRA has advertised for the road(its section) to be upgraded to bitumen standards(Asphalt concrete pavement) and similarly,the County Government has also engaged a new contractor to upgrade its section of the road to the same standards.

(IV)The conditions of the MOU made between the two levels of Governments were not availed for committee verification and the amount budgeted by the County Government towards the new contractor was also not disclosed

COMMITTEE RECOMMANDATIONS

1.The committee recommends that the department should budget for sufficient funds towards the project(under its section)and fastrack completion of the project and a smooth handing over

2.The department should in liason with the National government put in place measures to ensure that the deteroriating sections of the road as flagged out during the physical inspection of the audit are redone and upgraded to the required standards and further ensure that the whole road is completed within the new contract period.

15.Construction of Masinde Muliro Stadium

The County Government contracted a local firm for construction of Masinde Muliro Stadium at Kanduyi, at a contract sum of Kshs.679,386,379 and a contract period of 24 months from 14 June, 2019 to be completed on 31 January, 2021. However, a physical inspection conducted on 21 September, 2023 revealed that out of the total contract sum of Kshs.679,386,376, Kshs.582,849,313 or 86% had already been paid to the contractor against 70% of works done. No explanation was provided on the overpayment against actual works done. It was also observed that the actual payments as at that date of Kshs.582,849,313 included Kshs.40,200,000 paid in relation to preliminary expenses which were not supported. The expenditure of Kshs.582,849,313 also included Kshs.10,000,000 paid as contingencies but was not supported by appraisal of work done.

It was further observed that roofing works was sub-contracted to another contractor at a contract sum of Kshs.96,822,150. However, the sub-contracting agreement between the main contractor and the sub-contractor was not provided for audit review. It was therefore not possible to ascertain the terms of agreement and the actual scope of works sub-contracted. In addition, no documentary evidence was provided inform of a report by the implementation committee to the accounting officer on the outcome of the project contrary to Regulation 138(7) of the Public Procurement and Asset Disposal Regulations, 2020 which states that review meeting status reports that include executive summary, report on the performance of activities and budget by the implementation team be done and forwarded to the accounting officer.

In the circumstances, the actual implementation progress could not be ascertained and value for money was not obtained from the project.

Management Response

a)86% had already been paid to the contractor against 70% of works done

The payments are based on quantity of works done against the pricing model and the materials on the site as documented in technical evaluation report.

Appendix 22(a); Technical evaluation status report

b)Unsupported Expenditure on Preliminary Expenditure

c)Kshs.10,000,000 paid as contingencies but was not supported by appraisal of work done

The item was not billed as at the time of the audit

Appendix 22(e); Valuation Certificate No. 8

d)The above work was sub-contracted for roofing to another firm at a sum of Kshs. 96,822,150. The department did not provide contractual agreement between the main contractor and the sub-contractor, scope of work and schedule of work done by contractor.

No sub-contracting was undertaken. However the contractor is allowed to hire special skills for proper execution of his work to required standards.

e)No documentary evidence of a report by the implementation committee to the accounting officer

The Management agrees that Project Implementation Committee had not met for some time. This happened when the membership was affected due to staff transfers at the time. The Committee was subsequently reconstituted, thereby resuming its operations.

COMMITTEE OBSERVATIONS

The following observations were made;

(i)The Management response indicates that the justification for the percentage of payment of the works done(86% of the contract sum against 70% of the actual works done), was that the payments were based on quantity of works done against the pricing model and the materials on the site as documented in the technical evaluation report.

(ii)The management submissions over the expenditure of ksh.40,000,000 paid by the department towards preliminary expenses was not satisfactory

(iii)The item of ksh.10,000,000 paid by the department as contingencies had not been billed as at the time of the audit

(iv)It was observed from the management submissions that no sub-contraction was undertaken,although the management failed to give any explanation in regard to the expenditure of ksh.96,822,150 which the audit revealed had been involved in the sub-contracting

(v)The project implementation committee which had been affected by the staff transfers has since been reconstituted and resumed operations

COMMITTEE RECOMMENDATIONS

1.The committee recommends that the sector committee on Youth and sports takes up the matter for further investigation/probe within (30)days preceeding adoption of this report

16.Irregular Re-allocation Between Programs/Sub-votes

During the year under review, the Department of Agriculture, Livestock, Fisheries, Irrigation and Co-operatives budgeted to spend Kshs.55,780,000 on purchase of fertilizers. However, the supplementary budget provided for audit review indicated that the budget was increased to Kshs.270,000,000 representing a 384% increase. No evidence was provided to confirm that the increase in the budget was approved by the County Treasury and County Assembly as required by Regulation 30(8) of the Public Finance Management (County Governments) Regulations, 2015.

Further, we note that the budgetary reallocations were undertaken through the first supplementary process and approved by the county assembly to revise the approved estimates for FY 2022/2023.

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

Management oral submissions

The accounting officer stated that the re-allocations and the adjustments were necessitated by the then prevailing market rates where a unit price per bag of fertilizer had changed from approximately ksh.3,400 to ksh.6,500

Management submissions

The budgetary reallocations were undertaken through the First Supplementary Budget and approved by the county assembly to revise the approved estimates for FY 2022/2023.

The changes were occasioned by;

a)Unforeseen increases in fertilizer market price hence changing the unit price per bag of fertilizer from approximately Kshs. 3,400 to Kshs, 6,500.

b)Need to align the county government interventions to the national policy on food security at the time. This was made to cushion vulnerable farmers against the high cost of food by increasing the number of fertilizer beneficiaries from 220 to 500 per ward to enhance farm production and productivity.

Appendix 23; Extract of the approved 1st Supplementary Budget 2022/2023 and the 1st Supplementary Appropriation Act

COMMITTEE OBSERVATIONS

(i)The management in their response acknowledged that the amount was reallocated in the 1st supplementary budget.

(i)The Management has explained the reasons that occasioned the changes and has also produced supporting documents as evidence that they complied with the law on revision of the budget.

COMMITTEE RECOMMENDATIONS

1.The management should always provide necessary documents on time to forestall unnecessary audit queries

17.Un-Utilised Completed Webuye Milk Plant Phase 1

The County Government awarded a contract to a local contractor in 2018/2019 for construction of a maternal child ward block in Bungoma Teaching Referral Hospital at a contract sum of Kshs.299,370,092.20 and a contract period of 26 months ending 6 October, 2023.

According to the last interim payment certificate No. 8, the total value of work done as at 28 October, 2023 was Kshs.260,655,436.60 representing 87% of the total contract sum. The amount included Kshs.14,954,500 incurred as preliminary expenses but which were not supported by insurance cover policy, procurement records and supporting schedules.

Further, according to documents provided for audit review, the County Government did variation of works amounting to Kshs.59,704,656 without following due process, since a request from the contractor, re-measurement sheet by the resident engineer and approval from the client were all done after the contractor had completed the work. This was contrary to Section 132(2)(a) of Public Procurement and Asset Disposal Regulations, 2020 which provides that any variation request shall be reviewed by the contract implementation team.

In the circumstances, Management was in breach of the law

Management Response

a) Management acknowledges the audit observations and notes that establishment of the milk processing at Webuye is a phased project. Phase I entailed construction of structures to house the processing equipment and is currently complete.

Phase II comprises supply, delivery and installation of the processing equipment. The Project will be operationalized after completion of Phase II. Phase II has been delayed due to lack of resources. However, the department is prioritizing equipping and operationalizing the milk processing plant in its Draft Annual Development Plan for the year 2025/2026 that has since been forwarded to the County Assembly for consideration and approval. The estimated cost as per the Annual Development Plan is KShs. 192 million.

Appendix 24(a) - Extract of the Draft ADP and the Approved CIDP

b)Plant had not been handed over to the users

Phase I has since been handed over to the County Government

Appendix 24(b) – Handing Over Report

c)Penalty of Kshs, 7,452,847.63 for late settlement of Certificate Number 1

The penalty accrued as a result of uncertainty in Exchequer Releases during the Covid-19 period. It was in relation to delay in payment for certificates No. 3, 4 and 5. The penalty has not been paid due to lack of resources. However, the Management has since put measures in place to ensure that invoices are settled on time for future payments.

Management oral submissions

The accounting officer acknowledged the audit findings and stated that the project is a phased one and in this regard,phase 1 of the project is now complete and the same will be operationalized after completion of phase 11 which entails supply,delivery and installation of the necessary processing equipment.

COMMITTEE OBSERVATIONS

(i)The Management response indicates that phase I of the project was completed and handed over to the County Government and the handing over report was provided for committee verification.

(ii)It was further noted that phase 11 of the project which was delayed due to lack of resources and which comprised of supply,delivery and installation of the processing equipment has been prioritized through the draft ADP for the FY 2025/2026 and the approved CIDP.Copies of the said plan and the CIDP were provided and verified by the committee

(iii)The accrued penalty amounting to ksh.7,452,847.63 for late settlement of certificate Number 1 arose as a result of uncertainty in exchequer releases and the Covid-19 pandemic

COMMITTEE RECOMMENDATIONS

1.The committee recommends that the management should always provide all necessary documents on time to forestall unnecessary audit querries

2.The management should always ensure that measures are put in place to ensure that invoices for future payments are settled on time to avoid unnecessary penalties and instances of litigation over defaulted payment

18.Construction of Maternal Child Ward Block

The County Government awarded a contract to a local contractor in 2018/2019 for construction of a maternal child ward block in Bungoma Teaching Referral Hospital at a contract sum of Kshs.299,370,092.20 and a contract period of 26 months ending 6 October, 2023.

According to the last interim payment certificate No. 8, the total value of work done as at 28 October, 2023 was Kshs.260,655,436.60 representing 87% of the total contract sum. The amount included Kshs.14,954,500 incurred as preliminary expenses but which were not supported by insurance cover policy, procurement records and supporting schedules.

Further, according to documents provided for audit review, the County Government did variation of works amounting to Kshs.59,704,656 without following due process, since a request from the contractor, re-measurement sheet by the resident engineer and approval from the client were all done after the contractor had completed the work. This was contrary to Section 132(2)(a) of Public Procurement and Asset Disposal Regulations, 2020 which provides that any variation request shall be reviewed by the contract implementation team.

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

Management Response:

a)Expenditure on preliminary expenditure of KShs. 14,954,500

b)According to the documents provided the department did variation of works amounting to Kshs. 59,704,656 without following due process, as request from the contractor, re-measurement sheet by resident engineer and approval from the client were done after the contractor had completed the work which is contrary to section 132(2)(a) of Public Procurement and Asset Disposal Regulation, 2020.

The due process was followed on variation of the contract as per the attached. The Contractor initiated the process on 19th April 2022 vide letter reference INTERLECT/BGM/HLT/FEB/2019/VOL.1/39. The Public Works prepared and submitted the remeasurements vide letter reference BGM/RPW/MCWB/BDH/005/VOL1/56 dated 21st January 2022. Upon review and approval by the Project Implementation Team of the request, the Variation was approved by the Chief Officer on 19th December 2022.

Appendix 25(e); Request from the contractor, appraisal, Evaluation Committee Report, Procurement Professional Opinion and Contract Variation Order

COMMITTEE OBSERVATIONS

The committee made the following observations;

(i)The query was partially addressed save for the expenditure of ksh.14,954,500

(ii)The committee observed that the management failed to provide a breakdown on the expenditure of the preliminary expenses amounting to ksh.14,954,500 and the relevant supporting documents relating to the said expenditure were also not provided for committee verification

COMMITTEE RECOMMENDATIONS

1.The committee recommends that the sector committee on Health and Sanitation to take up the matter within (30)days from the date of adoption of this report and verify the breakdown of the expenditure of ksh.14,954,500

INSTALLATION, REPAIR AND MAINTENANCE OF GRID POWERED STREET LIGHTS

The County Government awarded a contract to a local construction company for installation, repair and maintenance of grid powered street lights throughout the County at a contract sum of Kshs.19, 060,076. However, records available indicated that the contractor was paid the full contract sum although the contract was incomplete as ground mounted metals control pillar was not done, a 4-way surface mounted consumer unit was not done, a 6-way surface mounted consumer unit was not done while trench back filling was not done.

Further, 25 amps single phase cut out was not installed, the 400 watts ultra-high-powered led floodlights was done but not to the specifications. In addition, erection of 6 publicity sign was not done while cable glands for terminating overhead cables were not done.

In the circumstances, value for money was not obtained from the project.

Management Response

a) Ground mounted metals control pillar, a 4-way surface mounted consumer unit, a 6-way surface mounted consumer unit and a trench back filling was not done

Work and further Ground mounted metals control pillar was not done the item was not paid for as per schedule no 3.07 , 4-way surface mounted consumer unit not done the item was not paid for as per schedule no 3.08

6-way surface mounted consumer unit not done the item was not paid for as per schedule no 3.09

Trench back filling was not done. The item was not paid for as per schedule no 3.16

Appendix 26(a); Executed Bill of Quantities

b) 25 amps single phase cut out not installed, the 400 watts ultra-high powered led floodlights done but not to the specifications

Works Status

25 amps' single phase cut out not installed Kshs. 2,000,000 The item was not paid for as per schedule no 3.04

400 watts ultra-high powered led floodlights done but not to the specifications. Done as per the specification of IEE regulation and ministry of public

Appendix 26(b); Extract of IEE Regulation

c) Cable glands for terminating overhead cables was not done

The item was not paid for as per schedule no 3.14.

Appendix 26(c); Actual Bill of Quantities

Management Oral Submissions

The management informed the committee that all payments queried by the auditor in the report were not paid and there was no loss of public funds

Committee Observations

The committee observed that the County Government awarded a contract to a local construction company for installation, repair and maintenance of grid powered street lights throughout the County at a contract sum of Kshs.19, 060,076.

Committee Recommendations

The committee of Trade should follow up the matter report back to the house within 30 days after adoption of this report

FAILURE TO TRANSFER FUNCTIONS TO KIMILILI AND BUNGOMA MUNICIPALITY BOARDS

The County Government of Bungoma established Kimilili and Bungoma Municipalities on 1 October, 2021 by awarding the two Municipalities their respective Charters as required by the Urban Areas and Cities Act, 2011. However, although the Municipalities were established in 2021, four critical functions had not been transferred to the two Boards by the County Executive as at 30 June, 2023. These are: approval of building plans, collection of revenue, enforcement activities, and refuse and garbage collection.

No explanation was provided for the failure to transfer the functions to the two Municipality Boards as required by law.

In the circumstances, Management was breach of the law.

Management Response

The Management agrees that most of the functions had not been transferred to the Municipalities. However, the Management avers that these transfers are done progressively as it continues to build the capacity of the Municipalities. The following highlights a listing of completed actions;

a) County Executive Committee has already approved the following functions to the Municipality Boards;

i) Overseeing the affairs of the Municipalities

ii) Developing and adopting policies, plans, strategies and programmes and setting targets for service delivery

iii) Formulating and implementing integrated development plans

iv) Promoting and undertaking infrastructural development and services within Municipalities

v) Administering and regulating its internal affairs

vi) Monitoring and, where applicable regulating Municipal services where those services are provided by service providers other than the Board of the respective Municipality

vii) Preparing and submitting annual budget estimates to the County Treasury for consideration and submission to the County Assembly

viii) Municipal Managers have been appointed as Accounting Officers to accord them the required operational independence from the supervising County Department

b) Progressive increase of the budgetary allocation for the Municipalities to enable them to carry out the indicated functions. The County Government has also lobbied for donor funding such as Kenya Urban Support Programme whose implementation is exclusively undertaken by the Municipalities

Management Oral Submission

The management submitted as follows;

- Municipal managers were appointed officers as since 1st July, 2024
- Both Municipalities have opened bank accounts at commercial banks (Family and Equity banks)
- Requisition for opening of banks at Central Bank for both Municipalities have been initiated

Committee observations

Not all functions have been transferred but there is a positive progress towards attainment of operational independence by the municipalities.

Committee recommendations

The matter remains unsettled

The Committee on Lands should ensure that all functions meant to be performed by Municipalities are transferred within 60 days

GROUNDED MOTOR VEHICLES, MOTORCYCLES AND MACHINERY

Review of motor vehicles records revealed that a total of 218 motor vehicles were grounded and un-serviceable. These included 134 motor vehicles and 84 motor cycles. Further, the County Government did not have an annual disposal plan of items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment. This is contrary to Regulation 176(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires an accounting officer to ensure that an annual asset disposal plan is prepared on items declared as unserviceable, surplus or obsolete, obsolescence stores, asset or equipment.

In addition, ownership documents for the grounded motor vehicles and motorcycles were not provided for audit review. The existence of some of them could not be confirmed as they were from the defunct local authority but could not be located physically.

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

Management Response

a) 218 grounded and un-serviceable motor vehicles and motor cycles

The grounded and un-serviceable motor vehicles and motor cycles have been scheduled for disposal in the current financial year as per the Annual Disposal Plan 2023/2024. However, the vehicles and motor cycles inherited from the National Government in relation to devolved functions will not be disposed of due to lack of ownership documents. The ownership of these vehicles and motor cycles has not been transferred to the County Government. This category of vehicles shall be disposed of once the ownership documents are secured.

Appendix 28(a); Annual Disposal Plan 2024/2025

a) Lack of an Annual Disposal Plan

The County Government has since prepared an Annual Disposal Plan for the year 2023/2024 so as to facilitate the disposal process.

Appendix 28(b); Annual Disposal Plan 2023/2024

b) Lack of ownership documents for the grounded vehicles

The indicated vehicles and motorcycles were inherited from the defunct local authorities and the national government in relation to the devolved functions. The ownership documents for the vehicles and motorcycles inherited from the defunct local authorities shall be processed prior to disposal.

However, the ownership documents for the vehicles and motorcycles inherited from the national in relation to the devolved functions will only be processed after the ownership has been formally transferred to the County Government after the full execution of Gazette Notice No. 5711 dated 21st June, 2019

Appendix 28(c); Extract of Gazette Notice No. 5711 dated 21st June, 2019(Role of the Summit)

Management Oral Submission

- The management informed the committee that some of the County vehicles that were being held by NZOWASCO have been transferred to Trans Nzoia County as the water body claims ownership of the vehicles.

- All vehicles that were in garages across the country were recovered and are within the county

- Some vehicles and motor bikes that were inherited from National government cannot be captured in the Asset register since registration numbers have not been changed.

- The department concerned is in the process of developing transport policy.

Committee Observations

- The County Government of Bungoma do not have disposal plan.

Some of the grounded vehicles and motor bikes still belong to National Government

There need for the County Government to follow up County vehicles that were being used by NZOWASCO

Committee recommendations

The Committee on Public Administration and ICT should follow on assets and liabilities of NZOWASCO after de-clustering

OPERATING WITHOUT RELEVANT POLICY DOCUMENTS

Audit findings

During the year under review, the County Government did not have an approved staff establishment document. Even though the County Government had drafted various policy documents like Human resource and procedure manual, staff establishment guidelines, casual's policy, career progression, succession plan policy, recruitment plan and ICT policy documents and procedures relevant for the effective management of its public service, none of them had been approved by the County Assembly for adoption and implementation.

In the circumstances, it was not possible to confirm whether the current staff affairs were fairly handled.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion

Management Response

a) Staff establishment document

The County Government has developed a draft establishment plan.

Appendix 29(a); Draft Staff Establishment

b) Policy documents that are still in draft stage

The County Government acknowledges lack of the indicated Policies. To address this, the County Government has adopted the National Government's Policies for use. Sec. 8(2) of the County Governments Act, 2012 allows the County Government to use a National Legislation if there is delay in approval of own county legislation. However, the Polices are at various levels of development and approval as indicated below;

Appendix 29b; Extract of the Draft Policies and letters forwarding the Policies to the County Assembly

Management Oral Submission

Management informed the committee that various Human Resource policies have been submitted to County Assembly for approval.

Committee Observation

The management acknowledged lack of the necessary policies as stated in the audit report.

Committee Recommendations

The Matter is unresolved

The Committee on Public Administration and ICT should seize the matter and ensure that all necessary legislations that concern Human Resource are fast- tracked.

COMPOSITION OF AUDIT COMMITTEE AND FAILURE TO OPERATIONALIZE RISK MANAGEMENT POLICY FRAMEWORK

Audit findings

As reported previously, review of the audit committee members' appointment letters and the audit committee meeting minutes revealed that as at 30 June, 2023, the Committee lacked one independent member. The position fell vacant on 4 December, 2018. In addition, the County Government was yet to operationalize the approved risk management policy framework and did not have an updated risk register.

Further, it was observed that the internal audit function had issued four quarterly reports presented to the Management through audit committee for consideration and implementation, which included issues on governance, risk management and internal controls and wastages. However, there was no evidence that the Management had taken initiative to implement the recommendations.

In the circumstances, effectiveness of internal controls, risk management and governance of the County Government could not be confirmed. The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Management Response

a) Independent Audit Committee Member

Management has put in place the County Audit Committee. An Independent member and a representative of the County Treasury have been appointed.

Appendix 30(a): Appointment letters of Members of the Audit Committee

b) Operationalization of the approved risk management policy framework and an updated risk register

The Directorate of Internal Audit Department has developed a Risk Register for all departments. The County Treasury will support the Departments in the capacity building of the technical officers and risk champions who are yet to be trained on risk management.

Appendix 30(b): Executive Entity-Level Risk Profile

c) Implementation of Internal Audit Recommendations

The County Government has continued to implement of internal audit recommendations. The County Government has automated the internal audit processes through acquisition of TeamMate+, an audit management solution. The software has since been placed on the County Government's Cloud Server and sends quarterly automatic reminders to the Accounting Officers on the outstanding internal and external audit issues. The Accounting Officers will be sensitized on how to use the system and undertaking self-monitoring of the outstanding audit internal and external audit issues.

Management Oral Submissions

The Audit committee is well composed

The management has implemented issues raised by Internal Audit department.

Committee Observation

All issues raised by the Auditor have been addressed.

Committee Recommendation

The matter has been addressed.

Adoption Schedule

We the members of the Public Accounts and Investment's Committee do hereby append the signatures adopting this report with the recommendations therein

NO	NAME	TITLE	SIGN
1	Hon. Everton Nganga	Chairperson	
2	Hon Timothy Chikati	V/Chairperson	
3	Hon Anthony Lusenaka	Member	
4	Hon Everlyne Mutiembu	Member	
5	Hon Jerusa Aleu	Member	
6	Hon Alfred Mukhanya	Member	
7	Hon Stephen Kaiser	Member	
8	Hon Metrine Nangalama	Member	
9	Hon Kennedy Wanyama	Member	
10	Hon Everlyne Anyango	Member	
11	Hon Moureen Wafula	Member	