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REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF HOMA BAY FOR THE YEAR ENDED 30 JUNE, 2024

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements;
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure the Government achieves value for money and that such funds are applied for the intended purpose; and,
- C. Report on the Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, risk management environment and internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

A Qualified Opinion is issued when the Auditor-General concludes that, except for material misstatements noted, the financial statements are fairly presented in accordance with the applicable financial reporting framework. The Report on Financial Statements should be read together with the Report on Lawfulness and Effectiveness in the Use of Public Resources, and the Report on Effectiveness of Internal Controls, Risk Management and Governance.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Homa Bay set out on pages 1 to 66, which comprise the statement of assets and liabilities as at 30 June, 2024 and the statement of receipts and payments, statement of cash flows and

summary statements of appropriation; Recurrent and Development combined, Recurrent and Development for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of County Executive of Homa Bay as at 30 June, 2024, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the County Governments Act, 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1.0. Unexplained Variance in Transfers from County Revenue Fund

The statement of receipts and payments reflects transfers from County Revenue Fund of Kshs.7,920,960,720 as disclosed in Note 1 to the financial statements. However, the County Revenue Fund statement of receipts and payments for the financial year reflects transfers to the County Executive amount of Kshs.6,921,646,432. The resultant variance of Kshs.999,314,288 has not been reconciled or explained.

In the circumstances, the accuracy and completeness of the transfers from the County Revenue Fund amount of Kshs.7,920,960,720 could not be confirmed.

2.0. Expenditure Misclassification on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.808,337,760, and as disclosed in Note 4 to the financial statements includes contracted professional services amount of Kshs.53,753,975. However, expenditures totalling Kshs.7,305,000 comprising Kshs.1,505,000 and Kshs.5,800,000 spent on rent and purchase of a motor vehicle were misclassified under contracted professional services instead of rentals of produced assets and purchase of motor vehicles respectively.

In the circumstances, the accuracy and fair presentation of the reported contracted professional services amount of Kshs.53,753,975 could not be confirmed.

3.0. Unsupported Payments of Non- Practicing Allowances

The statement of receipts and payments reflects compensation of employees amount of Kshs.4,205,707,306, as disclosed in Note 3 to the financial statements. The amount includes personal allowances paid as part of salary of Kshs.129,817,300, out of which Kshs.2,192,000 paid to fifty-eight (58) officers in the month of June, 2024 as non-practicing allowances. However, Management did not provide supporting documents to confirm staff eligibility for the allowances.

In the circumstances, the accuracy and regularity of non-practicing allowances expenditure of Kshs.2,192,000 could not be confirmed.

The audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Executive of Homa Bay Management in accordance with ISSAI 130 on the Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

1.0. Budgetary Control and Performance

The summary statement of appropriation: recurrent and development combined reflects final receipts budget and actual on comparable basis amounts of Kshs.9,962,208,395 and Kshs.7,967,540,682 respectively, resulting in under-funding of Kshs.1,994,667,713, or 20% of the budget. Further, the County Executive spent Kshs.7,629,345,969 against actual receipts of Kshs.7,967,540,682 resulting in an under-expenditure of Kshs.338,194,713 or 4% of the actual receipts.

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

2.0. Pending Accounts Payable

Note 19.1 Under Other Important Disclosures and Annex 3 to the financial statements, reflect pending accounts payable totalling Kshs.955,548,525 in respect to accounts payables brought forward from the year 2022-2023. During the year under review, pending bills, the County Executive incurred pending bills of Kshs.1,098,628,645 bringing the total pending bills for the year to Kshs.2,054,177,170, out of which, Management settled an amount of Kshs.861,909,354 leaving a balance of Kshs.1,192,267,816. This is indicative of the County Government's failure to settle the pending bills as a first charge to the budget contrary to the requirement of Regulation 41 of the Public Finance Management (County Governments) Regulations, 2015.

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

My opinion is not modified in respect of these matters.

Key Audit Matters

Key audit matters are those matters that, in my professional judgement, are of most significance in the audit of the financial statements. Except for the matters described in the Basis for Qualified Opinion section of my report, I have determined that there are no other key audit matters to communicate in my report.

Other Matter

1.0. Unresolved Prior Year Matters

In the report of the Auditor-General for the financial year 2022/2023, several issues were raised under the Report on the Financial Statements, Report on Lawfulness and

Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Management has indicated that almost all the prior year audit issues as resolved in the Progress on Follow Up on Prior Year Auditor's Recommendations section of the financial statements.

2.0. County Preparedness to Transition to Accrual Basis of Accounting

The County Executive had not implemented the prerequisites to accrual accounting, except for training two (2) staff members in the Finance Department. Further, The National Treasury had not configured the Integrated Financial Management Information System (IFMIS) to support accrual accounting contrary to Paragraph 1.4 of the Guidelines on Transition from Cash Basis to Accrual Basis of Accounting by Ministries, Departments, Agencies (MDAs) and County Governments which states that on 7 March, 2024 the Cabinet approved the transition from cash basis of accounting to accrual basis of accounting with effect from 1 July, 2024 and that the transition is to be undertaken over three years.

This is indicative of the County Executive lack of preparedness to transition to IPSAS accrual basis of accounting and reporting in the financial year ending 30 June, 2025.

Other Information

The Management is responsible for the Other Information set out on page v to xxx which comprise Entity Information and Management, Governance Statement, Foreward by the CEC-M Finance, Economic Planning and Service Delivery, Key Completed and ongoing Projects Implemented by County Executive of Homa Bay, Statement of Performance Against County Predetermined Objectives, Environment and Sustainability Reporting and Statement of Management Responsibilities.

In connection with my audit on the County Executive's financial statements, my responsibility is to read the other information and in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If based on the work I have performed, I conclude that there is a material misstatement of this Other Information, I am required to report that fact. I have nothing to report in this regard.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution and based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Regularity of Human Resource Management Practices

The statement of receipts and payments, and as disclosed in Note 3 to the financial statements, reflects an amount of Kshs.4,205,707,306 in respect to compensation of employees. The following unsatisfactory matters were however noted:

1.1 Employees on Acting Capacity for Prolonged Durations

Analysis of the payroll revealed that a total of twenty-seven (27) employees were in acting capacity for periods exceeding six (6) months. This was contrary to Section C.14(1) of the Public Service Commission Human Resource Policies and Procedures Manual for the Public Service, 2016, which states that an employee who has successfully and continuously acted in a vacant position for a period of six (6) months and meets the job requirements will be deemed to have been confirmed in that position.

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

1.2 Non-Adherence to One Third of Basic Rule

Analysis of the payroll of permanent staff revealed that eight hundred and thirty-one (831) staff in July, 2023, six hundred and twenty-five (625) in December, 2023, eight hundred and thirty-one (831) in March, 2024 and eight hundred and forty-seven (847) in June, 2024 received net pay that were less than a third of their respective basic salaries. This was contrary to Section 19 (3) of the Employment Act, 2007, which states that the total amount of deductions from the wages of an employee shall not exceed two third (2/3) of such wages.

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

1.3 Non-Compliance with Provisions on Ethnicity Diversity, Affirmative Action on Gender and Persons Living with Disabilities

Examination of the personnel records provided for audit revealed that as at 30 June, 2024, the County Executive had six thousand nine hundred and eighty-six (6,986) employees on its payroll. This staff complement is composed of 83% male and 17% female for support staff, and 75% male and 25% female for technical staff. The persons living with disabilities translated to 8% of support staff and 4% of technical staff. Further, the dominant ethnic community in the County comprised of 83% and 75% of the support and technical staff respectively. This was contrary to the provisions of Section 7 (1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

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

2.0 Regularity of Procurement and Award of Contracts

2.1 Payment for Consultancy Services - Payroll and Personnel Census

Note 4 to the financial statements reflects expenditure of Kshs.808,337,760 in respect to use of goods and services which further includes an amount of Kshs.53,753,975 in respect to contracted professional services. Included in the contracted professional services amount is Kshs.7,700,000 being payment to a firm in respect to part payment of the contract sum of Kshs.32,457,380 relating to a payroll and personnel census audit of county public service. The contract had been awarded in the financial year 2022-2023 under contract number HBC/OG2/007/1083740/2022-2023.

According to clause 14.1 of the special conditions of the contract, the contract was to run for twelve (12) weeks upon signing of the agreement. In addition, clause 40.2 of the special conditions of the contract, required 30% of the contract sum to be paid upon submission of the inception report, 40% upon submission of the draft report and the remaining 30% to be paid upon submission of a consolidated final report.

However, review of the expenditure confirmed that the contract period had elapsed and there is no evidence of the contract period by having been extended. In addition, Management did not provide any output inform of a report submitted by the consultant to evidence the work done.

In the circumstances, value for money has not been realized from the contract sum of Kshs.32,457,380 relating to a payroll and personnel census audit of county public service.

2.2 Unauthorized Budget Reallocations

During the year under review, Management undertook unauthorized reallocation of budgets by charging the inappropriate budget codes as detailed below:

S/No.	PV No.	Description	Amount Kshs.
1	29306	Payment to Department of Education and ICT	1,000,000
2	29573	Homa Bay County Salaries	1,477,000
3	29573	Homa Bay County Salaries	6,055,700
4	29330	Payments for Supply of Laptop	520,000
		Total	9,052,700

Although Management has indicated the mispostings have been regularized by passing Journal vouchers, this is irregular and is contrary to Section 2 of the Public Finance Management Act, 2012 that requires an accounting officer for a county government entity may reallocate funds between programs, or between Sub-Votes, in the budget for a financial year, but only if a request for the reallocation has been made to the County Treasury explaining the reasons for the reallocation and the County Treasury has approved the request; and the total of all reallocations made to or from a program or Sub-Vote does not exceed ten percent (10%) of the total expenditure approved for that program or Sub-Vote for that year.

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

2.3 Proposed Construction of County Aggregation and Industrial Park

The statement of receipts and payments, reflects expenditure of Kshs.333,198,009 on other grants and transfers which as disclosed in Note 9 to the financial statements includes an amount of Kshs.36,194,302 in respect to Homa Bay County Aggregation and Industrial Parks.

During the year under review, the County Executive entered into a contract with a Joint Venture of three companies to construct County Aggregation and Industrial Park at a contract sum of Kshs.498,338,151. This was preceded by an intergovernmental agreement between the National Government through the Ministry of Investments, Trade and Industry and the County Government. Under this framework, the National

Government was to contribute an amount of Kshs.250,000,000 and the County Government Kshs.250,000,000, which the County Executive allocated Kshs.100,000,000 in the 2022/2023 and Kshs.150,000,000 in the 2023/2024 financial year.

Review of documents and the project inspection conducted on 5 September, 2024 revealed the following:

- i. The contract was to run for seven (7) months to 6 April, 2024, with an extension of the contract period of one hundred and eighty (180) days being granted to 6 October, 2024. The basis of the extension was adverse climatic conditions (floods) which had led to work stoppages in November 2023. On 31 July, 2024 the contractor sought a second extension of eighty-eight (88) calendar days up to 9 January, 2025. The extension was however, granted to 13 October, 2024. Field verification conducted on 5 September, 2024 and one month before the expiry of the contract revealed the following status on key components in the priced bills of quantities:

Item	Current Status as per Audit Verification on 4 September, 2024
Construction of four (4) Value addition ware houses	Digging of column bases was in progress. The construction was approximately at 8% based on engineers estimate. The construction had been impacted by flooding at the foundation level and setting out of column bases.
Construction of two (2) Aggregation warehouses @ 1,000 M/Square	Digging of column bases was in progress. The construction was approximately at 8% based on engineers estimate. The construction had been impacted by flooding at the foundation level.
Construction of two (2) cold storage warehouses	Not started
Construction of borehole and pump house	Borehole complete but pump house not done.
Completion of boundary wall	Complete
Construction of office block, power house and ablution block.	Not started.

- ii. Out of the National Government's agreed contribution of Kshs.250,000,000 to the project, an amount of Kshs.62,500,000 had been received during the year under review. Part of these funds were used to settle the first certificate of Kshs.40,212,881 dated 7 June, 2024.
- iii. The project structural and architectural designs are the generic ones from the National Government and formed the basis of the procurement decisions (tender sum). However, due to the topography and nature of soil structure, the structural drawings have had to be revised at the County level. This is likely to have cost escalations on the project which is yet to be determined. This impact was also cited by the contractor in a letter dated 31 July, 2024 while requesting for extension of time.

In the circumstances, the Project may not be delivered within the estimated timelines and value for money on the expenditure on the investment on the County Aggregation and Industrial Park could not be confirmed.

2.4 Rehabilitation of Kapana - Sombro Earth Dam

The County Executive awarded the contract for the rehabilitation of Kapana - Sombro Earth dam in Kanjira and Korokoth Kataa Locations, at a contract price of Kshs.22,894,018 on 28 October, 2022. The project's targeted completion date was 30 December, 2022. During the year under review, the contractor was paid an amount of Kshs.6,240,976 being the final payment and retention money. Physical verification on 5 September, 2024 revealed that although the project was complete and in use, the dam had a lot of idle water which ought to have been distributed to the community to realize the optimal utilization of invested funds.

In the circumstances, the value for money on the expenditure of Kshs.22,894,018 on the dam could not be confirmed.

2.5 Idle Projects - Solar Pump Kits and Farm Ponds

The statement of receipts and payments and as disclosed in Note 9 to the financial statements reflects an amount of Kshs.333,198,009 in respect to other grants and transfers, out of which Kshs.119,390,851 was transferred to the National Agricultural and Rural Inclusive Growth Project (NARIGP).

During the year under review, the County Executive, through the NARIGP purchased fifty (50) solar pumps for Kshs.5,600,000 and constructed twenty-three (23) farm ponds for Kshs.1,050,000 to be used for irrigation by the farmers in various sustainable land management groups. The supply, delivery and construction were completed in October, 2023. However, physical verification conducted on 5 September, 2024, revealed that the Project was idle as the County Government had not purchased dam liners which are essential components before the equipment can be used. Management did not give a timeline for the purchase of the dam liners for the project to be into use.

In the circumstances, the value for money from the expenditure of Kshs.6,650,000 could not be confirmed.

2.6 Demolition of the Arujo Animal Feeds Milling Plant (Structure) in Arunjo Ward

As previously reported in 2021/2022, the Department of Trade and Industrialization awarded a contract to a local contractor for the construction and completion of an animal feeds factory and a godown at a contract sum of Kshs.45,160,064 in the financial year 2014/2015.

The contract period was for eight (8) months with an initial expected completion date of 4 January, 2016. Review of records revealed that the contractor had cumulatively been paid an amount of Kshs.36,712,000 as at 30 June, 2022 before termination. The contract was re-tendered and awarded to a new contractor at a contract sum of Kshs.24,239,267 on 24 May, 2022. However, physical inspection of the structure revealed that the project was incomplete and had stalled at the lintel level.

Further review of documents confirmed that, Management resolved to convert the land under Arujo Animal Feed and utilize it to establish the County Headquarters. The main reason given was the resumption and expected expansion of the Kabunde Airport, where having an animal feed factor will be a flight risk due to flying birds.

Verification of the Project on 9 September, 2024 revealed that the animal feed building was demolished and the construction of the County Headquarters was underway. However, the following anomalies were noted on the Project:

- i. The County Government chose demolition method as a way of disposal which resulted in loss of value of the capital asset otherwise than by way of putting it into other usage.
- ii. Evidence of whether the Executive Committee Member for Trade published the process and procedures for the demolition of the Project in accordance with Section 7 of the Public Finance Management (County Governments) Regulations, 2015, that is public participation, was not provided for audit review the County Assembly involvement or approval of the demolition method as a way of disposal was not provided for audit.
- iii. The existence and location of machinery and equipment valued at Kshs.74,212,711 as detailed below could not be confirmed:

Particulars	Date	Amount (Kshs.)
Delivering the Machines to Homa Bay County		18,430,825
Installation and Commissioning		6,143,608
First Payment	24/12/2014	1,266,726
Second Payment	04/03/2015	10,000,000
Third Payment	28/05/2015	3,127,414
Fourth Payment	10/07/2020	15,244,138
Fifth Payment	06/08/2021	20,000,000
	Total	74,212,711

In the circumstances, the value for money on the investment in the demolished Project could not be confirmed.

2.7 Construction of JNC B2 - Lake Front Access Road Phase 1 and 2

The statement of receipts and payments reflects an amount of Kshs.1,197,293,186 in respect to acquisition of assets, which as disclosed in Note 7 to the financial statements, includes an amount of Kshs.263,654,743 spent on the construction of major roads, access roads and bridges.

During the year under review, the County Executive invited tenders for upgrade to pavement standards of JNC B2 - Lakefront Access Road Phase 1 and 2 on 15 December, 2023 through restricted tendering. The two tenders were opened on 22 December, 2023. Ten (10) firms submitted bids for Phase 1, while nine (9) bids were received for Phase 2. The tender evaluation was conducted and the report was issued on 27 December, 2023 recommending that a firm to be awarded the Phase 1 contract at a price of Kshs.9,240,970.12 and another be awarded the Phase 2 contract at a price of Kshs.7,031,737.56. Both tenders were awarded on 12 January, 2024 and payments were effected on 27 June, 2024.

However, it was noted that the works were not complex and not specialized in nature as envisaged in Sub-section 102 (a) of the Public Procurement and Asset Disposal Act, 2015. There was also no time constraint as envisaged under Sub-section (b) and no evidence was provided to allude to the fact that only a few suppliers of the works were available to warrant consideration under Sub-section 102 (c).

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

2.8 Construction of Buildings – Non-Residential

Note 7 to the financial statements discloses expenditure on the construction of buildings – non-residential amount of Kshs.200,230,130. However, the following unsatisfactory observations were made:

2.8.1 Incomplete Landscaping and Drive Way Works at Kigoto Milling Plant

As previously reported, an expenditure of Kshs.6,329,138 was incurred on landscaping and driveway works at Kigoto Milling Plant. However, physical inspection conducted on 30 October, 2024 revealed that the works were incomplete and the surface water drainage and vegetation works with bill of quantities valued at Kshs.710,230 were undone while the contractor was not on site.

2.8.2 Incomplete Drilling and Equipping of Borehole, Installation of Underground Water Tank, Installation of Overhead Water Tank and Water Pump at Kigoto

As previously reported, an amount of Kshs.4,503,017 was paid to a contractor for drilling and equipping of the borehole, installation of the underground water tank, installation of overhead water tank and water pump works at Kigoto at a contract sum of Kshs.7,382,054. However, physical inspection conducted on 30 October, 2024 revealed that the project was incomplete due to the non-installation of the solar system. In addition, the four (4) water tanks each of ten thousand (10,000) litres, that were installed on the water tower were blown off due to lack of guard rails which were not placed to secure the water tanks.

2.8.3 Incomplete Fencing and Construction of Gate at Kigoto Maize Milling Plant

As previously reported, an amount of Kshs.4,728,786 was paid to a contractor for fencing and construction of Gate at Kigoto Maize Milling Plant. Records provided for audit revealed that the contractor was further paid an amount of Kshs.3,455,067 vide payment dated 12 January, 2024. Further, examination of the supporting documents revealed that three (3) members of the Inspection and Acceptance Committee did not append their signatures to the report. In addition, physical inspection of the works on 30 October, 2024 revealed that the two (2) pedestrian gates and one sliding truck gates were not done, and the contractor was not on site.

2.8.4 Incomplete Construction of Sentry House, Changing Rooms, Generator Room and General Repairs at Kigoto Maize Milling Plant

As previously reported, an amount of Kshs.3,523,481 was paid against the contract sum of Kshs.4,979,700 for the construction of sentry house, changing rooms, generator room and general repairs. However, physical inspection on the 30 October, 2024 revealed that the sentry house and main gate works were incomplete, and the contractor was not on site.

In the circumstances, the value for money may not have been realized from the expenditure of Kshs.200,230,130 on the construction of buildings – non-residential.

3.0 Non-Compliance with Fiscal Responsibility Principle on Development

The summary statement of appropriation: recurrent and development combined reflects total actual expenditure of Kshs.7,629,345,969, while the summary statement of appropriation: development indicates total actual expenditure of Kshs.1,922,220,129 representing 25% of the total expenditure. This is contrary to Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015, which stipulates that the county government actual expenditure on development shall be at least thirty percent (30%) in conformity with the requirement under Section 107(2)(a) of the Act.

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

4.0 Non-Compliance with the Fiscal Responsibility Principle on Compensation of Employees

The statements of receipts and payments reflects compensation of employees amount of Kshs.4,205,707,306, representing 53% of the County total revenue of Kshs.7,967,540,682. This was contrary to Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015, which provides that the County Government expenditure on wages and benefits should not exceed thirty-five (35%) of the total County Revenue.

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

5.0 Unsupported Payments on Legal Expense

The statement of receipt and payments reflects an expenditure of Kshs.808,337,760 on use of goods and services as disclosed in Note 4 to the financial statements. Included in the expenditure is an amount of Kshs.53,753,975 for contracted professionals' services, out of which, an amount of Kshs.11,001,015 was paid as legal fees to various firms for representing the County Executive in various legal disputes/court cases during the year under review.

However, records obtained from the Homa Bay County Law Office indicate that there were three hundred and fifty (350) court cases against the County Executive some were still ongoing, and others still pending before the courts dating back to the year 2020. However, the details of the court cases such as the subject matter, case files, period taken to complete the case, fee notes and the financial implication such cases may have on the County Executive were not provided for audit. Further, all the three hundred and fifty (350) court cases and matters were being handled by external law firms even though the County Executive has a County Legal Unit with relevant human resources. No satisfactory explanation was given for outsourcing the legal services. In addition, it was not possible to ascertain the status of the court cases or legal fee and the potential financial impact that may result therefrom.

In the circumstances, value for money realized from the expenditure of Kshs.11,001,015 on outsourced legal services could not be confirmed.

6.0 Non-Submission Municipalities Financial Statements

The County of Homa Bay has four (4) established Municipalities of Mbita, Oyugis, Kendu Bay and Ndhiwa. However, the financial statements for all the municipalities for the 2022/2023 and 2023/2024 financial years were not prepared and submitted to the Auditor-General for audit. This was contrary to Section 180 of the Public Finance Management Act, 2012, which requires that, at the end of each financial year, the accounting officer of the City or Municipality established by the Urban Areas and Cities Act, 2011 shall prepare financial statements in accordance with the standards and formats prescribed by the Public Sector Accounting Standards Board and the provisions of the Urban Areas and Cities Act, 2011.

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

7.0 Late Submission of Financial Statements for Sub-County Hospitals

The financial statements for four (4) Sub-County Hospitals of Kabondo, Ndhiwa, Rangwe and Tom Mboya Memorial Sub-County Hospital for the year ended 30 June, 2024 were submitted late in December, 2024 to the Auditor-General for audit. This was contrary to Section 164(4)(a) of the Public Finance Management Act, 2012, which provides that within three months after the end of each financial year, the accounting officer for an entity shall submit the entity's financial statements to the Auditor-General.

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

8.0 Failure to Prepare Financial Statements for Financing Locally-Led Climate Action (FLLoCA) Program

During the year under review, the County Executive received funding under Financing Locally-Led Climate Action (FLLoCA) Program. However, the financial statements were not prepared and submitted for audit contrary to Section 164(4)(a) of the Public Finance Management Act, 2012, which provides that within three months after the end of each financial year, the accounting officer for an entity shall submit the entity's financial statements to the Auditor-General.

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

9.0 Failure to Submit of Climate Change Progress Reports

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects capital grants and transfers of Kshs.391,728,933 which further includes Kshs.109,113,464 in relation to Financing Locally-Led Climate Actions (FLLoCA) programme.

Review of documents provided for audit revealed that the County Executive has put in place a climate change action plan to guide the implementation of the Homa Bay County Climate Change Policy, 2021 and the Homa Bay County Climate Change Risk Assessment and Vulnerability Assessment Report, 2022. Among key elements of the Homa Bay Climate Change Policy is a requirement that the County shall prepare Annual Climate Change Progress Reports and submit them to the County Assembly. However, Management had not prepared Annual Progress Reports and submitted them to the County Assembly in line with the policy as at 30 June, 2024.

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



The audit was conducted in accordance with ISSAI 3000 and ISSAI 4000. The standards require 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 comply 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.

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

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015 and based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

Basis for Conclusion

1.0. Employees with Duplicate Bank Account Numbers

Review of the payrolls revealed various officers shared bank accounts during the year under review; July, 2023 – four (4) officers, December, 2023 – twenty-two (22) officers, March, 2024 – fourteen (14) officers and June, 2024 – fourteen (14) officers. This is indicative of irregularities and internal control weaknesses over the payroll management processes.

In the circumstances, the effectiveness of internal controls over payroll preparation could not be confirmed.

2.0. Lack of Approved Organization Structure and Human Resource Management Instruments

During the year under review, the County Government did not have in place an approved organizational structure, staff establishment and human resource policies.

In the absence of an approved staff establishment, it was not possible to determine if the County Executive operated with an optimal number of staff.

3.0. Engagement of Community Health Promoters (CHPs)

During the year under review, the County Executive engaged two thousand nine hundred and fifty-four (2,954) Community Health Promoters (CHPs) through the Department of Public Health to work as a link between the community and formal health facilities. This was under the formal arrangement between the National Government and County Governments. The County Government contributes an amount of Kshs.2,550 covering stipend (Kshs.2,000), NHIF (Kshs.500) and bank charges (Kshs.50). However, review of the engagement process revealed that the identification criteria for the CHPs were not structured in a formal way posing the risk of engaging incompetent and non-committed persons to the program.

In addition, there was no evidence of the scope of duties and the management controls of the activities of the CHPs hence likelihood of not achieving the intended objective.

In the circumstances, the effectiveness of internal controls over the engagement of Community Health Promoters and their deliverables could not be confirmed.

4.0. Failure to Establish an Audit Committee

During the year under review, the County Executive had an internal audit unit. However, an Audit Committee had not been established. Further, contrary to Regulation 159(2) of the Public Finance Management (County Governments) Regulations, 2015, there were no published annual report on the review of the independence, performance, and competence of the Internal Audit Unit.

In the circumstances, the effectiveness of risk management and governance in the County Executive could not be confirmed.

5.0. Lack of Information Communication Technology Policy

As previously reported, review of ICT environment and its controls revealed that there is no ICT Policy in place to govern ICT environment. The Management had not approved draft ICT Policy to govern ICT environment and address areas of concern such as;


- i. Information Technology Governance to ensure ICT strategic committee is in place.
- ii. ICT security Management to ensure data confidentiality, integrity and availability and to ensure there is patch management process on all systems software's.
- iii. ICT Program change management to ensure that there is formally documented and approved processes to manage upgrades made to all information systems.
- iv. Physical access controls to ensure physical access to sensitive areas like server rooms, storage rooms and network rooms are properly controlled.
- v. Environmental control to cover environmental controls like fire suppression system, ups and air conditioning systems especially in server rooms.
- vi. Logical Access Control to document and approve user management standards and procedures in the organization.

In the circumstances, the integrity, security and reliability of the County Executive's financial data including its Management Information System could not be confirmed.

6.0. Lack of an Assets Register

Annexure 4 to the financial statements reflects non-current assets with a historical cost balance of Kshs.8,797,568,719 as at 30 June, 2024. However, as previously reported, review of records revealed the following anomalies:

- i. Management did not maintain a fixed asset register in the prescribed format contrary to Regulation 136 (1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws. The register in place lacked identification or serial numbers, acquisition date, description of asset, location, class and cost of acquisition.

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- ii. The register of land and buildings did not have a record of each parcel of land and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, leasehold terms, maintenance contracts and other pertinent management details as required under Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015.
 - iii. Management did not report on assets taken over or inherited from all the defunct Local Authorities.
 - iv. Management is yet to establish policies and procedures on assets management as required under Part XII of Public Finance Management (County Governments) Financial Regulations, 2015.
 - v. The assets were also not tagged for ease of identification and tracking.
 - vi. No evidence was provided indicating that the assets were regularly inspected to confirm existence, condition and location of the assets.

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

The audit was conducted in accordance with the ISSAIs 2315 and 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, 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.

Responsibilities of the Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as the Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and governance.

In preparing the financial statements, the Management is responsible for assessing the County Executive's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using going concern basis of accounting unless the Management is aware of the intention to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, the Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements comply with the authorities which govern them and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the County Executive's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

My responsibility is to conduct an audit of the financial statements in accordance with Article 229(4) of the Constitution, Section 35 of the Public Audit Act, 2015 and the International Standards of Supreme Audit Institutions (ISSAIs). The standards require that, in conducting the audit, I obtain reasonable assurance about whether the financial statements as a whole are free from material misstatements, whether due to fraud or error and to issue an auditor's report that includes my opinion in accordance with Section 48 of the Public Audit Act, 2015. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

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

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

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


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

27 December, 2024