

## COUNTY ASSEMBLY OF SAMBURU



### ***THE HANSARD***

**Tuesday, 22<sup>nd</sup> July, 2025**

**The Assembly met at the County Assembly Chambers at 9:30 am**

***The Speaker, (Mr. Lenamarle Stephen) in Chair***

### **PRAYER**

## **COMMUNICATION FROM THE CHAIR**

### UNAUTHORIZED DISCLOSURE OF

### OFFICIAL COMMUNICATION

**The Speaker,** (Mr. Lenamarle Stephen): Hon Members, I wish to bring to the attention on a matter of a possible breach of privilege relating to unauthorized disclosure of official communication from this House. Following the adoption of a Report by the House on the 2<sup>nd</sup> April, 2025; on official letter dated 23<sup>rd</sup> April, 2025 and referenced SBU/CK/CPISAC/VOL.103/2025 was transmitted to the Ethics and Anti-corruption Commission. It has come to the attention of Speaker's office that this letter has been widely circulated across various social media platforms contrary to expected level of confidentiality and decorum associated with official Assembly correspondence.

Hon Members, the unauthorized sharing of such information may constitute a breach of privilege and misconduct within the meaning of Standing Orders 211 (4) which mandates the Committee on Powers and Privileges to inquire into any conduct that may adversely reflect on the dignity or integrity of the Assembly or its members; in view of the seriousness of the matter and in accordance with Standing Orders No. 214 (4), (5) and (6) I hereby refer the issue to the Power and Privileges Committee for investigations. The Committee is expected to inquire into the circumstances surrounding the disclosure, identify and person or persons responsible and submit its finding together with the appropriate recommendations to the House.

Should the Committee after the inquiry determine that there was indeed a breach of privilege or misconduct; this House may consider appropriate disciplinary action as provided for under Standing Order 211 (7) which includes but not limited to suspension from the service to Assembly. I urge all Hon Members to remain vigilant and committed to upholding the dignity, integrity and confidentiality of this Assembly at all times, thank you.

## **MOTION**

### **AUDITOR GENERAL REPORT ON STATEMENT OF COUNTY EXECUTIVE OF SAMBURU FY 2024**

**The Speaker,** (Mr. Lenamarle Stephen): Hon Members, before we proceed to the debate; I wish to guide the House as follows:

Given the unique nature of this Report which is structured around specific audit queries, responding Committee findings and targeted recommendations, I will allow the Chairperson of the Committee to summarize the report for the benefit of the House and the hansard.

Chairperson, you may highlight the most significant audit issues; maintaining the finding recommendations format. Kindly avoid reading the full report as Members had adequate time to familiarize themselves with the details since its tabling on 13<sup>th</sup> May, 2025, you may now proceed.

**Member, Committee on Public Investment and Accounts,** (Hon. Lenamatiyo Silapia): Thank you Hon Speaker. With your permission; allow me to read on behalf of the Hon Member for Wamba West Ward who is on the moody because the House proceedings are not live, If possible.

**The Speaker,** (Mr. Lenamarle Stephen): Propose and be seconded.

**Member, Committee on Public Investment and Accounts,** (Hon. Lenamatiyo Silapia): **THAT**, this County Assembly adopts the Report of Public Investment and Accounts Committee on The Examination of the Report of the Auditor General on the statements of County Executive of Samburu, for the Year ended 30<sup>th</sup> June, 2024; laid on the table of the House on Tuesday 13<sup>th</sup> May, 2025.

*(The Chairperson moves the Motion)*

**Chairperson, Committee on Public Investment and Accounts,** (Hon. Lemartile Francis): **THAT**, this County Assembly adopts the Report of Public Investment and Accounts Committee on The Examination of the Report of the Auditor General on the statements of County Executive

of Samburu, for the Year ended 30<sup>th</sup> June, 2024; laid on the table of the House on Tuesday 13<sup>th</sup> May, 2025.

I beg Hon. Lentukunye Christopher to second the Motion

***(Hon. Lentukunye bows to second the Motion)***

**The Speaker,** (Mr. Lenamarle Stephen): Hon Members, I now propose the Motion:

**THAT,** this County Assembly adopts the Report of Public Investment and Accounts Committee on The Examination of the Report of the Auditor General on the statements of County Executive of Samburu, for the Year ended 30<sup>th</sup> June, 2024; laid on the table of the House on Tuesday 13<sup>th</sup> May, 2025.

**Chairperson, Committee on Public Investment and Accounts,** (Hon. Lemartile Francis): Mr. Speaker, Pursuant to Article 226(2) of the Constitution of Kenya, 2010 *“The Accounting Officer of a National Public Entity is Accountable to the National Assembly for its Financial Management, and the Accounting Officer of a County Public Entity is accountable to the County Assembly for its Financial Management”*. Article 226(1) (a) provides for Accounts and Audit of Public Entities by the Office of the Auditor General. The responsibility of the Auditor General is to express an independent opinion on the financial operations of Samburu County Executive in accordance with section 48 of the Public Audit Act. Pursuant to Samburu County Assembly Standing Order No. 206 the Public Investments and Accounts Committee has the mandate to examine Audit Reports on the Financial Management of the County Governments: County Executive and Assembly. Samburu County is constituted as per the Constitution of Kenya, 2010. It is charged with the responsibility of providing a variety of services within its jurisdiction. The County Government is headed by the Governor and supported by the County Executive Committee in carrying out its mandate as stipulated in the Constitution. CECM Finance and Economic Planning is mandated with the responsibility of reporting on financial and nonfinancial operations of the county government affairs.

The Audit objective was to obtain reasonable assurance whether financial statements present fairly in all material respect, financial position of the County Executive as at 30<sup>TH</sup> June, 2024 and of its financial performance and its cash flows of the year for the year. The County Assembly of

Samburu received the Auditor General's report which was tabled and committed to the Public Investments & Accounts Committee on February 2025 pursuant to Article 229(7) of the Constitution of Kenya, 2010“ *Audit reports shall be submitted to Parliament or the relevant County Assembly*”.

Subsequently, the PIAC Committee invited the County Executive Committee Members to answer to Audit queries raised in respect to the financial statements of the County Executive.

The report was committed to the Committee on February, 2025 and thereafter, Joint Summons between the Committee, a representative from the Auditor General and the County Executive team was conducted on 7th -11th April, 2025 respectively where the Committee closely examined and heard evidence on Oath from Witnesses and reviewed submitted documents. Thereafter, the committee proceeded for comprehensive report writing.

While taking evidence, the Committee was guided by the existing procedures and modalities of operations of the Samburu County Assembly derived from the Constitution of Kenya, 2010; Samburu County Assembly Standing Orders, common practices and rulings and directives of the Chair. Mr. Speaker, The task given to this Committee is within provisions of Article 195 of the Constitution of Kenya and the County Assembly Standing Orders Number 206.

The task given to this Committee is within provisions of Article 195 of the Constitution of Kenya and the County Assembly Standing Orders No. 206.

Mr. Speaker, Committee mandate; the Public Investments and Accounts Committee (PIAC) as grounded in the County Assembly Standing Orders No. 206, is responsible for the following:

- i) The examination of the accounts showing the appropriation of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County assembly as the committee may think fit
- ii) The examination of reports, accounts and workings of the County public investments
- iii) The examination in which the context of autonomy and efficiency of the County public investment whether the affairs of the County public investment are being managed in accordance with sound financial or business principals and prudent commercial practices

The legal frame work of the Constitution which gives power to this Committee is in Constitution of Kenya 2010 Chapter 12, Public Finance Article 201 of the Constitution of Kenya: principles shall guide all aspects of public finance in the Republic

(2) Article 229 of the Constitution the Office of Auditor General is mandated under Article 229 of the Constitution to audit the 47 County Governments and any entity that is funded from Public Funds.

The principles of public fund:

- 1) Principles on Public Finance Article 201 of the Constitution of.
- 2) Direct Personal Liability Article 226(5) of the Constitution of Kenya provides that: – *“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”*.
- 3) County Assembly Powers and privileges Act, 2017.

On behalf of the Committee allow me to express my utmost gratitude to the Members of the Committee and to a larger extent the Honorable Speaker, Office of the Clerk and Office of the Auditor General who worked closely with us to make sure that necessary facilitation was availed. Mr. Speaker, I also wish to register my special appreciation to the Committee Secretariat who had to go beyond the normal call of duty to make the production of this report possible.

Hon Speaker and Hon Members, I now go directly to the queries raised by the Office of the Auditor General. I will read the questions raised and Committee’s recommendation. Members will take time to read management’s response. The report has thirty-four issues raised. Hon Speaker and Hon Members, we are here to represent people and oversight, if we will not have time to elaborate the raised questions; it will continue to recur.

1. Unconfirmed Cash and Cash Equivalents and operation of Commercial Bank Accounts:  
The statement of assets and liabilities and Note 13 A to the financial statements reflects cash and cash equivalents balance of Kshs.142, 476,191. However, bank reconciliations for one (1) bank account reflects receipts in cash book not recorded in the bank statement

totaling to Kshs.102, 198,283. No explanation was provided on why the receipts had not been banked as at 30<sup>th</sup> June, 2024.

Further, the statement of assets and liabilities and Note 13A to the financial statements reflects cash and cash equivalents balance of Kshs.142, 476,191 being bank balances for fifteen (15) special purpose accounts operated by the County Executive. During the year under review, it was established that the County Executive maintained another twenty-five (25) active operation accounts in various commercial banks. However, Management did not provide approval status of the accounts, dates when the bank accounts were opened, signatories to the bank accounts, certificate of bank balances as at 30 June, 2024 and the dates when the County Treasury granted approval for opening and operating the bank accounts. Further, the accounts were not disclosed under other important disclosures in the financial statements. In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.142, 476,191 could not be confirmed.

**Committee Recommendations:**

- i) Management should enhance efforts to address budgetary under-funding and ensure accurate revenue forecasting to prevent recurring underfunding issues.
  - ii) Timely disbursement and efficient utilization of funds should be prioritized, especially for key funds like the Climate Change Fund, to avoid underutilization.
  - iii) Management should put in place measures to address inefficiencies in the use of allocated funds across all Departments to improve service delivery.
  - iv) Inactive bank accounts should be closed to reduce unnecessary financial liabilities and ensure better financial management.
2. Budgetary Control and Performance: The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounting to Kshs.6,977,942,770 and Kshs.5,724,353,308 respectively, resulting to an under-funding of Kshs.1,253,589,462 or 18% of the budget. Further, the County Executive spent an amount of Kshs.5, 666,818,805 against actual receipts of Kshs.5, 724,353,308 resulting to an under-utilization of Kshs.57, 534,503 or 1% of actual receipts. The under-funding affected the planned activities and may have impacted negatively on service delivery to the public.

**Committee Recommendations:**

- i) The County Executive should put in place the annual development priorities and objectives and set performance targets for maximum absorption of the budget.
  - ii) The County Executive should ensure proper planning which should be the basis for budgeting and spending in the county.
  - iii) Budget implementation time should be followed to the latter and positive attitude be imparted on men and women assigned the duty of collecting, accounting and implementing utilization of resources of the county. The Committee recommends that any accounting officer who could have not utilized their budgetary allocations the subsequent allocations will be reduced.
3. Late exchequer Releases. The statement of receipts and payments and Note 1 to the financial statements reflects transfers from the County Revenue Fund (CRF) balance of Kshs.5, 550,672,020 in respect of exchequer releases. However, Exchequer releases amounting to Kshs.1, 454,521,248 were received during the month of June, 2024 and August, 2024. The late Exchequer releases delayed implementation of the County Executive's for the year under review.

Committee Recommendations:

- i) That, Counties should develop a framework with the National Treasury to ensure that funds are released on time so as not to derail County operations.
  - ii) The Senate PAC should be formally briefed on unresolved issues requiring national policy interventions.
4. Pending bills not paid as first charge Note 20 under other important disclosures to the financial statements reflects pending accounts payables and other pending accounts payables opening balances of Kshs.465, 119,507 and Kshs.134, 884,756 as outlined in Annex 2 and 4 respectively. However, an amount of Kshs.208, 786,719 and Kshs.132, 535,604 in respect of pending accounts payables and other pending payables which should have been paid as first charge were still outstanding at the end of the year under review. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the County Government does not default on debt obligations. In the circumstances, Management was in breach of the law.



Committee recommendation: That Management ensures all pending bills outstanding at the close of the financial year are settled as a first charge in the subsequent financial year, in full compliance with Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015. Additionally, Management should prioritize the settlement of any remaining pending accounts payables and other payables to prevent further accumulation and ensure adherence to legal obligations.

The other query raised by the Auditor General is Report on lawfulness and effectiveness in use of public resources:

1. Compensation of employees; non-compliance with the law on fiscal responsibility on the wage bill: The statement of receipts and payment and Note 3 to the financial statements reflects compensation of employees' balance of Kshs. 2, 272, 177, 408 or 41%

The county executive therefor exceeded the 35% limit set under the Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulation, 2015. Which requires that the county government expenditure on wages and benefits for public officers not to exceed 35% of the county total revenue in circumstances management was in breach of the law.

Committee recommendation;

- i. That Management ensures that the expenditure on wages and benefits for public workers officers is within the legally set limit of 35% of the county's total revenue as stipulated under regulation 25 (1) b of the of the Public Finance Management (county government) regulation 2015.
- ii. That Management ensures no positions are filled that are not defined in the staff established to prevent unnecessary wage bill expansion.
- iii. That the county executive should optimize its own resource collection to increase Financial Capacity and reduce dependence on the wage bill.

The second question raised by the Auditor General on staff employment is regular staff recruitment. The statement was received and payment Note 3 in the Financial Statements reflects compensation of employees amounting to Kshs.2, 272,177,408. Included in the expenditure is an amount of Kshs.60, 069,840 that was made to twenty nine (29) staff members under the

“Governors Delivery Unit”. As previously reported, the unit was not provided for in the approved organization structure and the duties and responsibilities of the members were not defined. It was further noted that the approval from the County Public Service Board (CPSB) advertisement, applications, shortlisting’s, interviews and selection of successful candidates were not provided for audit confirmation contrary to Section 60(10 (c) of the County Government Act, 2012.

The Committee recommended;

- i) That the County Public Service Board (CPSB) and the county secretary be held liable for negating on their responsibility in approving the recruitment, selection and appointment of Governors Delivery Unit officers. A report in progress made should be submitted 30 days after adoption of this report.
- ii) That, Management to ensure that the law is complied with in the creation of Governors Delivery Unit.
- iii) That the Management should provide termination 3evidences and ensure CPSB approvals for all posts. The matter should also be forwarded to the EACC for investigation into abuse of office and irregular appointments.

#### **Salaries paid outside integrated payroll and personnel Database system.**

The Committee expect all the salaries to be paid on the IPPDS and marks this query was well resolved during the appearance of the executive.

#### **Non-compliance with staff ethnic diversity.**

- i. The County Executive had a total staff of two thousand, two hundred and twenty-nine (2,229) employees out of whom one thousand, seven hundred and forty-nine (1,749) or 72% members of staff were from the dominant ethnic community. Further included in the employees is a top management team of 33 employees. However, 29 or 88% were from the dominant ethnic community was contrary to Section 1 & 2 of the National Cohesion Integration Act 2008. Which stipulates that all public establishment shall seek to represent the diversity of the people of Kenya in the employment of staffs and that no public establishment shall have more than 1/3 of its staff from the same ethnic community. In circumstances, management was in breach of the law. The Committee

recommends that the deliberated efforts be made during recruitment on specific skills that will target the intended threshold of the constitutional requirement the fifth question on employees Non-compliance with guidelines on acting positions.

The committee agreed with management response and marked this query resolved during the executive appearance.

**Irregular engagement of casuals.** That is the sixth on the employment,

The statement of receipts and payments Note 3 to the financial statements reflects compensation of employees balance of Kshs.2,272,177,408. Included in this expenditure is an amount of Kshs.36,441,690 that was paid to casual workers in the Health Department. However, no staff rationalization was done to assess the need to hire casuals, the County Public Service Board (CPSB) was not involved in the recruitment of casual workers and no muster roll was provided to confirm work attendance. In addition, the casuals were engaged for more than three (3) months without review of their terms contrary to Section 37(1) (b) of the Employment Act, 2007 which states that where a casual employee performs work for more than three months, the contract of service of the casual employee shall be deemed to be one where wages are paid monthly and section 35(1) (c) shall apply to that contract of service. This exposes the County to litigation for unlawful terms of employment.

In the circumstances, Management was in breach of the law. The Committee recommended that the Management to carry out staff rationalization before engaging casuals for optimal utilization of human resources.

**The Speaker,** (Mr. Lenamarle Stephen): Hon. Leleruk

**MCA Suguta Ward,** (Hon. Leleruk James): thank you Mr. Speaker I just rose on a Point of....

**The Speaker,** (Hon. Lenamarle Stephen): Hon. Lemartile kindly take your sit,

**MCA Suguta Ward,** (Hon. Leleruk James): Mr. Speaker just ask for guidance I know this report has been in this House for almost two months and I think every Hon. Member has this report and I heard when you gave your ruling that the chairman should just read the summary so that we can interject maybe because we have other issues to attend to and I think everybody knows what is in the report.

*(Point of Order from Hon. Lorunyei)*

**Specially Elected MCA**, (Hon. Lenolkulal Esther): Asante Bw. Spika, ninafikiri ripoti hii iko hapa kama ripoti nyingine ambayo inafaa ifuatwe hadi mwisho. Hata ingawa tuna mambo mengine tumalize hii tupate kwenda Bw. Spika tafadhali

**The Speaker**, (Mr. Lenamarle Stephen): Hon. Lenamparasio kindly let Hon. Esther to speak, Hon. Lemartile just continue and kindly try to summarize.

**Chairperson PIAC Committee**, (Hon. Lemartile Francis): Thank you Mr. Speaker in your opening remarks or when we met that the report we need to be live stream on because you gave orders and we need everything to be in Hansard. Giving a summary will not give a complete report so I will take question by question raised by the Auditor General, if any Member is in a hurry Mr. Speaker you can give us guidance so that we go this is a very important...

**The Speaker**, (Hon. Lenamarle Stephen): Just continue...

**Chairperson PIAC Committee**, (Hon. Lemartile Francis): For public interest...

*(Point of Order from Hon. Loloju)*

**MCA Maralal Ward**, (Hon. Loloju Joseph): Thank you Mr. Speaker, as my colleague has pointed all of us are well schooled, we went to school all of us in this particular House. This report has been in this House for the last 2 months we are all aware of and we are not in a hurry to rush to anyplace on personal level I am not. But what my colleague is reading is what I went through...

**The Speaker**, (Mr. Lenamarle Stephen): Mr. Loloju your point is taken, just take your seat, let us give Hon. Lemartile but as I said just read the findings and the recommendations and if the matter is solved do not read.

**Chairperson PIAC Committee**, (Hon. Lemartile Francis): Thank you Mr. Speaker I think that is what I am going to do. Hon. Members we have Hansard on all the questions raised, thank you. May I move on, the Seventh Question raised by the Auditor General on Employment of staffs;

Question 7. **Non remittance of statutory deductions**

The statement of receipts and payments Note 3 to the financial statements reflects compensation of employee's balance of Kshs.2,272,177,408. Included in this expenditure is an amount of Kshs.160,248,535 in respect of pension and social security benefits (employer contribution to compulsory National Social Schemes). However, the County Executive did not remit a balance of Kshs.9,732,171 to National Social Security Fund and Kshs.60,613,975 to other pension schemes.

This was contrary Section 20(1A) of the National Social Security Fund No.45 of 2013 which requires an employer to pay the contribution on the ninth day of each month following the end of the month. In the circumstances, Management was in breach of the law.

Committee recommended that, the Management to ensure all statutory deductions are paid promptly to avoid penalties and interests. We are now through with employment we move to goods and services.

### **Use of Goods and Services**

The first question raised by the Auditor General on is;

#### **Q1. Inadequacies in the Use of Framework Contracting;**

The statement of receipts and payments and Note 4 to the financial statements reflects use of goods and services balance of Kshs.1,459,188,123. Included in this expenditure is an amount of Kshs.270,392,151 in respect of specialized materials and services out of which an amount of Kshs.31,080,000 was used for purchase of foodstuffs for Early Childhood Development and Education (ECDE) centers within the County. However, the following anomalies were noted;

- i. The tender was done through a mini-competition for companies with existing framework contracts. However, the company that was awarded the tender was not contracted under the category of rice and beans and was therefore irregularly entered into a mini-competition contrary to Regulation 103(2) (b) of the Public Procurement and Asset Disposal Regulations, 2020. Which states that an Accounting Officer may award a contract under a framework agreement through inviting mini-competition amongst the suppliers under the framework agreement.

- ii. The use of framework agreement rather than open tendering was not sufficiently justified contrary to Section 91(1) (2) of the Public Procurement and Asset Disposal Act, 2015 which states that open tendering shall be the preferred procurement method for procurement of goods, works and services and the procuring entity may use an alternative procurement procedure only if that procedure is allowed and satisfies the conditions under this Act for use of that method. In the circumstances, Management was in breach of the law.

**The committee Recommendation**

- i. Management response the Management must at all times strictly comply with the provision of the Public Procurement and Asset Disposal Act 2015 and its regulation particularly in the regards of the use of framework agreement and mini-competition.
- ii. The Management should adhere strictly with the approved procurement categories when awarding contracts and a framework agreement to avoid irregularities.
- iii. The Department should take an internal review of the procurement process for this gender. Take corrective action where necessary and submit a report to the county Assembly within 30 days from the date of adoption of this report.

**Q2. Gaps in the Management of Training Expenses.**

The statement of receipts and payments and Note 4 to the financial statements reflects use of goods and services balance of Kshs.1, 459,188,123. Included in the expenditure is an amount of Kshs.62, 997,084 in respect of training expenses. However, there was no evidence of training needs assessment and training projections to justify the expenditure and the County Executive did not have a training program. Further, Management did not prepare quarterly returns on trainings that took place during the financial year and gauge their effectiveness.

It was also revealed that staff at the County Executive applied for reimbursement of subsistence allowances and training fees without providing evidence that the trainings were approved before proceeding, and that the officers were nominated for the

trainings by the Head of the Human Resource Department or delegated departmental heads and copied to the head of the County Human Resource 3 5 Department. In the circumstances, the value for money from the training expense of Kshs.62,997,084 could not be confirmed.

The Committee recommended;

- i. That management put in place a policy and guidelines on training. The policy be documented and circulated to all departmental heads for compliance.
- ii. That, all trainings be coordinated by the Head of County Human Resource Management.

**Q3. Irregular Payments to Council of Governors and Frontier Counties Development Council;** I think that one is beyond our handling I will leave that part.

**Q4. Irregular Supply of Learning and Playing Materials to ECDE Schools;**

The statement of receipts and payments and Note 4 to the financial statements reflects use of goods and services amount of Kshs.1, 459,188,123. Included in this expenditure is an amount of Kshs.270,392,151 in respect of specialized materials and services out of which an amount of Kshs.8,978,099 was used for purchase of learning and playing materials for ECDE centers within the County.

However, it was not possible to determine whether the learning and playing materials were supplied at fair prices as each Swing was priced at Kshs.44, 444, each Slide was priced at Kshs.54, 444 and each See-Saw was priced at Kshs.43,736 and the Management did not provide a market survey.

In addition, during the audit inspection, it was noted that the Slides that were delivered had no tunnels and the Swings had only two (2) seats on each side instead of three (3) seats as per the Bills of Quantities. This was contrary to Regulation 223(1)(c) of the Public Procurement and Asset Disposal Regulations, 2020 which states that subject to the provisions of Section 176 of the Act, a public officer of a procuring entity shall not procure goods, works or services at unreasonably inflated prices beyond the indicative market survey which the Department had not carried out.

In the circumstances, the value for money in the expenditure of Kshs.8, 978,099 could not be confirmed.

**The Committee recommendation;**

- i. That, The Management should adhere to procurement regulations and ensure they conduct market surveys before requisitioning for goods to prevent getting them at inflated prices
- ii. That, the matter should be escalated to the DCI and EACC for investigations into possible procurement fraud and financial loss.

**Q.5 Late Commitments.** Review of procurement records revealed that expenditure commitments/contracts for various supplies of goods and services amounting to Kshs.156, 235,210 were made after 31 May, 2024 without the written approval of the Accounting Officer. This was contrary to Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that all commitments for the supply of goods or services shall be done not later than the 31 May each year except with the express approval of the Accounting Officer in writing. In the circumstances, Management was in breach of the law.

- i. That the Accounting Officer shall ensure that all commitments made after 31st May of any financial year are supported by prior written approval, in strict compliance with Regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015.
- ii. That the Accounting Officer is hereby cautioned that the Committee shall not tolerate any further breach of procurement timelines, and any recurrence will attract personal accountability in accordance with the law.
- iii. That the Accounting Officer shall submit to the County Assembly, within thirty (30) days from the date of adoption of this report, a comprehensive report detailing all commitments made after 31st May 2024, including any supporting approvals and justifications.

**4.3 NON-SUBMISSION OF FINANCIAL STATEMENTS FOR AUDIT.**

**4.3.1 Emergency fund.**



The statement of receipts and payments made on Note 6 and 7 to the financial statements reflects Kshs.566, 502,436 and Kshs.214, 691,471 being transfer to other Government agencies and other grants and transfers respectively. Included in these balances are an amount of Kshs.253, 178,575 and Kshs.40, 000,000 being expenditures on emergency locust response and emergency relief and refugee assistance respectively.

However, the County Executive did not prepare and submit financial statements for the Emergency Fund to the Auditor-General. This was contrary to Section 115(1) of the Public Finance Management Act, 2012 which requires the County Treasury to prepare and submit to the Auditor General, financial statements in respect of the Emergency Fund for that year not later than three months after the end of each financial year. In the circumstances, Management was in breach of the law.

Committee recommendations:

1. That the County treasury shall establish a fully functional emergency fund in accordance with the provisions of section 110 to 115 of the PFM Act 2012 including the development of enabling regulations establishment of governing committee. Opening of a separate bank account, a compressed progress report on the establishment of the emergency fund shall be submitted to the County Assembly after sixty days on adoption of this report.
2. That the accounting officer is hereby reprimanded for incurring expenditure amounting to Kshs.293,178,575 from public resources without proper legal and regulatory frameworks in contravention of Public Finance Act. Municipality of Maralal raised questions, have not prepared the financial statement but the committee marked this query.

### **Stalled projects.**

Construction of inpatient block at Samburu County Referral Hospital. The County Executive of Samburu entered into a 12-months contract with a local company for the construction of in-patient block at the Samburu County Referral Hospital on 30<sup>th</sup> March 2022 at a contract sum of Kshs.116, 951,010. As at 30<sup>th</sup> June 2024 the contractor had raised three certificates all amounting to Kshs. 107,790,785 which had been fully paid.

Project inspection carried out on 17<sup>th</sup> September 2024 revealed that the contractor was not on site and doors, window, finishes, electrical work, sanitary pipe fittings, drains and lift shafts had not been done. No explanation was provided on why the contractor was not on site and why the works were all still incomplete.

In circumstances the value of money on the expenditure of Kshs.107, 790,785 could not be confirmed.

**Committee recommendations.**

1. Members of the inspection and acceptance committee, the project engineer who certified the three payment certificates totaling to Kshs.107, 790,785 and the responsible accounting officer be held personally liable for approving payment without verifying actual work done on site in contravention of public procurement and financial management laws.
2. That the accounting officer shall immediately suspend any further payment to the contractor, initiate recovery of any over-payment made and submit a comprehensive investigation report to the County Assembly within 30 days from the date of adoption of this report.
3. That the department of health and sanitation in collaboration with the department of public works shall follow up on the implementation status of the project, ensure that the contractor returns to site to complete the pending works and report progress to the County Assembly within 60 days.

**Irregular fencing work for ECD centers.**

The statement of receipt and payment and note 9 to the financial statement reflect acquisition of assets amount to 1,152,259,363. Included in this expenditure is an amount of 229,838, in respect of construction of buildings out of which an amount of 10,247,500 was used for fencing work of fifteen ECD centers within the County. However, the winning bidder had failed at the preliminary evaluation for failure to attach an AGPO certificate for use but the evaluation committee proceeded to commend the company for the work.

Further, audit inspection carried out during the months of September 2024 in the sample schools reveal that the fencing work were done with untreated cypress posts which were already being

damaged by termites. In addition, the bill of quantities and payment certificate provided different descriptions for the fencing work where the bill of quantities require the contractor to use treated cypress posts but the payment certificate done by the quantity surveyor indicate the certificate works were done with concrete posts which was contrary to what was implemented in the circumstances the value for money in the expenditure of 10,247,500 could not be confirmed.

**Committee recommendations.**

1. That the officer responsible for awarding the contract to a bidder who failed preliminary evaluation requirement including failing to attach the AGPO certificate at the time of tender opening be held personally liable for breach of procurement regulations and disregard of the evaluation process.
2. That the matter deescalated to Directorate of Criminal Investigations and EACC for comprehensive investigation into possible procurement irregularities, falsification of documentation and loss to the County Government.
3. That the County Executive ensures that all future procurement processes strictly adhere to the public procurement and asset disposal act 2015 and that all contracts documentation including bills of quantities and payment certificate accurately reflect the actual work implemented on the ground.

**Construction of Governor's official residence.**

The County executive entered into a contract with a local contractor for construction of the Governor's official residence on 17<sup>th</sup> January 2022 for a total contract sum of 87,586,528. The contract sum was Kshs.42,585,528 over and above the ceiling set by the salaries and remuneration commission of Kshs.45M for the construction of the Governor's official residence. As at 30<sup>th</sup> June 2024 an amount of Kshs.60,440,153 had been paid to the contractor for the work.

However, document to confirm the exemption of the above over-expenditure on the governor's official residence by the Senate were not provided for audit. The deadline of 30<sup>th</sup> June for the completion of the residence had been surpassed as provided for by the salaries and remuneration commission.

Physical inspection carried out on the month September 2024 shows that only the superstructure works had been completed. Doors, windows and finishing works had not been started. In

addition, the contractor was not on site. Further, despite the amount of Kshs.3, 142,625 out of Kshs.6, 285,220 being paid for electrical work, security system and fire-fighting appliances. None had been installed.

Additionally, two guard houses and four gazebos fully paid for had not been completed at the time of the inspection. In circumstances the value of money on the expenditure of Kshs.60, 440,153 could not be confirmed.

The committee recommends that:

1. Anti-corruption commission be formally notified to provide a comprehensive status report on the progress of its on-going investigation into the stalled construction of the governor's official residence including issues of potential procurement irregularities, financial mismanagement and breach of statutory ceiling.
2. That the County executive be directed to immediately enhance site security to prevent further damage to the partially completed work and preserve public asset pending the conclusion of the investigation and decision on the way forward.

**Insufficient budgetary allocation for ECD construction.**

In the year under review, management awarded a contract of construction of sixty ECD pit latrines to a local company at a contract sum 32,301,200 or Kshs535, 020 per pit latrine as per the contract dated November 10<sup>th</sup> 2023. However, it was noted that as per the approved supplementary budget only 20 ECD pit latrines were approved for construction with budget of Kshs.12M.

The budget reduction was done after the county executive entered into a contract worth 32,301,200 and work for the same were on-going. This was contrary to section 53,8 of the public procurement and asset disposal Act 2015 which require that an accounting officer shall not commence any procurement proceeding until certified that sufficient funds to meet the obligation of the resulting contract as reflected in its approved budget estimate.

**Committee recommendations.**

1. That management renegotiates the contract with the contractor to align with the scope of work with the available funds under approved supplementary to avoid future contractual dispute and financial obligation beyond budget limit.
2. That the completion of the remaining work be considered a priority and factored into the subsequent financial year budget with clear implementation plan and funding provisions to ensure project completion without further legal or audit query.
3. That the accounting officer be cautioned to strictly adhere to section 53,8 of the public procurement and asset disposal Act 2015 which prohibits commencement without confirmation of sufficient funds to prevent similar budget violation in future.

**Inadequate inspection of road projects.**

The County Executive awarded tender for construction of roads amounting to Kshs.169, 859,258. However, review of the payment vouchers reveals that only standard inspection sheets that are normally used for goods and services were used by the inspection and acceptance committee for road projects. There were no documented predetermined standard inspection procedures issued to the inspection and acceptance committees to guide them on the inspection of the roads.

This was contrary to Section 150 (3) of the Public Procurement and Asset Disposal Act, 2015 which states that where goods, works and services under Sub-Section (2), are of technical nature and the specifications were provided by a technical department or professionals engaged to work on behalf of the Accounting Officer, that technical department or professionals engaged to work on behalf of the Accounting Officer shall be responsible for confirming the right quality and quantity of goods, works or services have been delivered and issue a certificate to the recipient Accounting Officer.

In the circumstances, value for money on the expenditure incurred on the construction of roads could not be confirmed.

Committee recommendations

1. That, The Accounting Officer be formally reprimanded for failing to provide documented and standardized technical inspection procedures in accordance with Section 150(3) of the Public Procurement and Asset Disposal Act, 2015.
2. That, the matter be escalated to the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) to undertake investigations into possible procurement irregularities and potential financial loss to the County Government.
3. That, The County Executive develop and implement a comprehensive framework for technical inspection and certification of works of a technical nature, including roads, to ensure proper oversight, accountability, and value for money in public projects.

#### **Delayed Utilization of Maralal Municipality Retail Market.**

The County Executive of Samburu entered into a contract on 30 June, 2020 with a local company for the construction of a trade market in Maralal Municipality at a contractual amount of Kshs.53,981,760. The works were done over a period of twenty-four (24) months and the contractual amount paid in full.

The retail market remained unutilized and on 25 May, 2023, the County Executive entered into another contract with a different contractor for the completion of the Maralal retail market through addition of an extra floor at a contractual amount of Kshs.20,000,000 and was completed in May, 2024.

Audit inspection conducted during the month of September, 2024 revealed that the market remained unutilized. In addition, water proofing of the flat roof was not done as per the Bill of Quantities as mastic asphalt was not applied. Further, the retail market site was covered with overgrown bushes, heaps of waste soil that the contractor had not disposed and dilapidated iron sheets securing the site that the contractor ought to have removed after erecting a masonry fence.

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

### **Committee recommendations**

The committee recommends that the project be put into use for the people of Samburu to enjoy value for money. The committee expects a report within 30 days upon adoption of this report.

### **Irregular Implementation of Water Projects**

I will go straight to the specific projects. That audit inspection revealed that drilling and equipping of Sere Eloikari and Ntepes boreholes at a cost of Kshs.8,418,077 and Kshs.8,720,855 respectively, did not have Water Kiosks constructed as per the Bill of Quantities.

In the circumstances, value for money on the expenditure incurred in the desilting of dams and drilling of boreholes could not be confirmed.

Committee recommends

1. That, the Accounting Officer be formally reprimanded for failure to ensure adherence to the technical specifications outlined in the Bills of Quantities, and for allowing implementation of water projects without proper verification and inspection protocols.
2. That, the matter be escalated to the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) to conduct investigations into the possible misappropriation or misuse of public funds related to the desilting of dams and drilling of boreholes.
3. That, The County Executive be directed to establish and enforce clear technical guidelines and inspection procedures for all civil works and water infrastructure projects, including desilting of dams and borehole drilling, to ensure value for money and transparency.
4. That, all future water projects must include signage, hydrogeological survey reports, environmental impact assessments, and community consultation reports, which should be availed for audit verification and public accountability.

### **Irregular Procurement of Breeding Stock**

The auditor questioned the sustainability of the project and establishment of distribution guideline.

The Committee recommends that:

1. That, the management streamline the breeding stock procurement process by ensuring that clear criteria for beneficiary identification, as well as reports on the needs assessment and project sustainability, are provided for future audits.
2. That, the Samburu County Livestock Development Policy be finalized and tabled before the County Assembly for approval within 60 days of adoption of this report.
3. That, The County Government ensures public participation and transparency in all future livestock procurement projects, ensuring that beneficiary identification is done through transparent and documented procedures, and that contact details of beneficiaries are captured accurately.
4. That, the management continues to enhance coordination between delivery and inspection teams to improve transparency in distribution and accountability.

### **Irregular Procurement of Mobile Phones and Laptops**

The committee recommends that:

1. That, the management ensures compliance with the Public Finance Management Act by providing requisitions, market surveys, and beneficiary lists for all procurements, along with appropriate supporting documentation.
2. That, the management improves the accountability and safeguarding of county assets, ensuring due process is followed in all procurements to prevent wastage and theft.

### **Unutilized Projects.**

The County Executive completed various projects at a cost of Kshs.57, 371,296. However, audit inspection carried out in September, 2024 revealed some projects that had not been put into use as detailed below:



Department	Project Cost (Kshs.)
<i>Health</i>	<i>16,969,070</i>
<i>Sports and Youth Affairs</i>	<i>27,926,050</i>
<i>Livestock</i>	<i>7,481,316</i>
<i>Education</i>	<i>4,994,860</i>

The list of projects has been given. The committee expects that the procuring entity to ensure that section 162 (1) of the public procurement and asset disposal Act 2015 adhered to. The committee expects a report within 30 days upon adoption on status of unutilized projects.

**Long outstanding imprest.**

Irregular allocation of equalization fund. I think it is very clear.

Lack of risk management policy.

Weaknesses in internal controls.

Weaknesses in internal audit.

During the year under review the County Executive organization structure was not provided to be able to ascertain operational independence of the internal audit unit by confirming that the head of internal audit report functionally to the audit committee and administrative to the accounting officer. This was contrary to section 151(1) of the public finance management Calculation 2015 which state that the head of internal audit unit in the county government entity shall enjoy the operational independency through the reporting structure by reporting administratively to the accounting officer and functional to the accounting committee. In circumstances the existence of the effective process and system of the internal audit. The committee recommends that the county secretary is hereby required to

deploy all officers transferred to other departments by the audit department. The committee expects a report within 30 days upon adaption of this report.

In conclusion, the committee urges the county executive to implement its recommendation so that the county can achieve its vision to be a leading county in effective and efficient utilization of its resources, provision of essential services thus the growth and development initiative for improving the quality of life for all.

The county executive must demonstrate commitment to financial discipline, transparency and value for public money. The committee will monitor compliance initiate search on persistent and non-compliance with where necessary. All partially address and resurface should be followed up by the county treasury and action report table within one order. The auditor general should conduct a follow up within six months to verify implementation of the corrective measures.

Senate pick and park should be formally brief requiring national policy and policy intercession. Lastly the committee recommend the EACC and DCI to faster track investigation for lack of potential procurement and implementation irregularities. Thank you Hon. Speaker and Hon. Members I think I am done with the committee report and that is question raised by the auditor general not and are very few.

The audit process is long. When the executive appear before the committee, we advise them on several raised questions, some documents to submit so that members are shown that the raised questions were addressed in a better way for improvement of the services. This report is a public document; it is all other government oversight agencies. It is open for all scrutiny even if make a follow up, there are other agencies like the senate, EACC and DCI once this report is there, the question raised they will follow up.

I wish the members pass the report the way it is and I apologise for taking long, the report was detailed. Thank you so much.

**The Speaker,** (Mr Lenamarle Stephen): I call upon Hon. Lemoosa to move his amendment.

**MCA Nyiro Ward,** (Hon. Lemoosa Jonathan): Thank you Hon. Speaker. I rise to register my reservation regarding the punitive recommendation contained in the report of the public investment and accounts committee. Especially those recommendations refer to certain audits

query to the anti-corruption commission and the DCI. Allow me to propose that amendment and of course I have a backing for it. I want the house to bear with me, learn the points that I wish to amend before I actually propose it.

Allow me to continue because I wish the house to understand the reason why I am proposing amendment rather than adapting the report the way it is. I fully support the spirit of accountability and adherence to the law, however, approach must remain guided by the principles of national justice fairness and due process. As leaders we must resist the temptation of oversight instead ensure recommendations are guided by the evidence available.

It is important to note that the very issues raised in this report including the operations of the governance delivery unit GDU and the construction of the governance house are already subject of the ongoing investigations by relevant agencies. In fact, credible reports indicate that the investigations to the GDU is on the advanced stage. Why then should this house choose to duplicate the outcome of formal investigation by again referring this same matter to the same agencies.

The EACC had already given advisory and corrective measures to the same effect of GDU. Further punitive recommendations on matters already under investigation risk undermining the credibility of this house portraying as political reactive rather than procedural sound. We must not appear as if we are euthanizing this reports. However, many of implementation failures high lightens in the report especially in the water sector require technical audit, not criminal prosecution as in this stage.

What the people of Samburu want are working projects, value for money and services that reach them. Referring every issue to the EACC or DCI may be temporary applause but it does little to solve systemic weakness in project management or improve service delivery. It is for this reason that I will be proposing amendment to delete this punitive recommendation and instead direct the county executive to undertake a comprehensive technical audit, including disclosure of project starters compliance to bill of quantities and community engagement records and report back to this assembly within 60 days.

We have upheld accountability with fairness and responsibility. I wish to propose an amendment motion to the report of the public accounts committee pursuant to standing order number 64 (1)

as per yesterday 21<sup>st</sup> July, 2025, as required by the house. Pursuant to standing order 64 (1) of the County Assembly of Samburu standing order, I beg to move the following amendment to the report of the public accounts committee. 1: Amendment to section 2(4) irregular supply of learning and playing materials to the ECD schools the recommendation that the matter being escalated to the directorate of criminal investigation and EACC be deleted and substituted with the following that the county executive should provide a comprehensive procurement and value for money, justification for all ECD learning and playing materials procured and submit a compliance and corrective action report to the assembly within 30 days.

I further recommend an amendment to section 4 (2) page 49: irregular fencing works for ECD centres. The recommendation that the matter be escalated to the DCI and EACC be deleted and substituted with the following, that the county executive ensure full documentation of the procurement evaluation process and submit a report to the assembly or any other corrective action taken within 45 days.

I recommend to amend to section 4(45) page 55: inadequate inspection of roads project that the recommendation that the matter be referred to DCI and EACC be deleted and substituted with the following that the county executive develops submits to this County Assembly with 60 days a comprehensive framework for technical inspection of the roads, infrastructure, projects and any other reconciliation reports of the roads constructed within the year under review.

Amendment to section 4 (6) page 61: irregular implementations of water projects that the recommendation of the matter be escalated to EACC and DCI be deleted and substituted with the following that the county executive develops and tables audit report of all water projects implemented during the financial year under review including project starters, bill of quantities, signage and public engagement records within 60 days. Thank you and I call upon Hon. Nakinyi to second.

Hon. Members I now propose the question that the reports of the public accounts committee be amended as proposed in the motion by the Hon. Lemoosa.

**The Speaker,** (Lenamarle Stephen): Hon. The Deputy Speaker.

**The Deputy Speaker,** (Lelengeju Jackson): Thank you Hon. Speaker I rise to oppose the recommendations of the public investments accounts committee that propose the referring of

various matters to investigate to investigative agencies namely the DCI and EACC. While I fully support the principle of accountability and transparency I submit that the recommendations to escalate issues to criminal investigations are premature, un procedural and politically disruptive.

First the matters cited including the implementation of the roads and water projects are fundamentally issues of administrative weakness, procurement inefficiencies and poor project supervision not necessarily criminal conduct. These are governance issues that fall within the internal corrective mandate of this house and the executive internal audit mechanisms.

Secondly, we risk criminalising policy failures and technical weakness. If every instance of non-compliance or delay in inspection is treated as criminal matter, we render the routine oversight and corrective engagement meaningless. There must be a clear threshold for when we invite the external agencies and I submit that the threshold has not been met. It is our duty as the legislators to exhaust the assembly's powers to oversight and demand accountability through structured and reasonable channels.

Recommending DCI and EACC should be the last resort not the first instinct. It undermines our authority and fuels unnecessary public alarm. Further, some of the affected departments have not been granted adequate opportunity to present technical explanations procurement record or sight justifications. It is not in the interest of the justice to recommend external investigations when the assembly itself has not concluded internal verifications. I am persuaded by the amendments brought forward by Hon. Jonathan Lemoosa which offer pragmatic solutions including technical audit, reconciliation reports, and structured timelines for compliance.

These are constructive and progressive recommendations that serve the public interests without invoking external agencies prematurely. As I conclude, let us not weaponised our oversight tools. Let us urge with restraints responsibility and maturity. I therefore oppose all the recommendations in the report that oppose escalation of the DCI and EACC and to call upon this house to adopt alternative resolutions that promote accountability while upholding due process thank you.

**The Speaker,** (Lenamarle Stephen): Hon. Lemartile. It is the move of the motion so Hon. Loloju just take your seat. You will speak...okay Lemartile just take your seat. Hon. Loloju you can afford your point.

**MCA Maralal Ward,** (Hon. Loloju Joseph): Thank you Mr. Speaker sir. I have a lot of reservation for uncle here that is why he would not deny me a chance since we have known each other since childhood. I was to congratulate the chairman and his committee for the good work that they have done. It is a commendable job, big ups to all of you. However, I have some few reservations to make and as such I have decided to put it in writing so that in case of any reference it is available.

With all due respect, allow me to read it. I rise to oppose the recommendations contained in the report of the Public Investments and Accounts Committee that propose referring certain audit matters to the Ethics and Anti-Corruption Commission and the Directorate of Criminal Investigations, DCI. I do so with respect to the oversight role of this Assembly. But I believe these references are being made too early and without giving the concerned departments a fair chance to explain themselves.

Some of the other issues raised in this report, such as delayed project inspections, missing documentation, or uncompleted works, may be serious, but they do not automatically mean there was theft or corruption. Some of these issues happen due to poor planning, weak systems, or lack of proper supervision. We should not treat every mistake in accounting or procurement as a criminal case. It is wrong to punish people before we fully understand the reasons behind the problems.

Before we provide any matter to investigative agencies, we must first exhaust all processes as an Assembly. That means calling the officers to answer and asking for audit reconciliations, doing technical inspections, and giving clear timelines for corrections. If the officers refuse to comply or fail to take action after being given a fair chance, then and only then should we escalate the matter. We must use our powers to fix systems and guide institutions, not to scare people.

Sending officers to EACC and DCI too quickly will only create fear in the departments. It will discourage civil servants from making decisions or implementing projects. This can delay services to the public, which is not what our people want. They want solutions, not blame games. Also, we must be honest with ourselves. Many of the cases we have referred to EACC and DCI in the past have not resulted in any action. They go silent, and nothing changes. In short, they die naturally.

We must focus on practical steps that bring real accountability, not just headlines. For these reasons, I fully support the amendments proposed by Hon. Jonathan Lemoosa. His recommendations, to strengthen internal audit, ask for proper explanations, and demand compliance through structured timelines are better for this county.

We offer a path to real solutions without harming innocent officers or stalling development. In conclusion, I urge this House to act surely and responsibly. Let us avoid rushing into referrals that are not well justified. Let us protect the oversight role of the Assembly by using it wisely. I therefore oppose all recommendations, referring matters to EACC and DCI and support alternative proposals that focus on correcting, not punishing. Aside from the case, I think the Honorable Chair and its members have not seen it of late. The marketplace in this municipality there is no garbage lying around. The whole place is clean, actually. It's well maintained everywhere. I was expecting them to go through.

**Specially Elected**, (Hon. Lenamatiyo Silapia): Point of Order Mr. Speaker.

**MCA Maralal Ward**, (Hon. Loloju Joseph): Allow me to finish, then you can proceed.

**Specially Elected**, (Hon. Lenamatiyo Silapia): Honorable Speaker, I rise on a point of order. The Honorable Member is referring to the Chair of the Committee, saying he should go and see the market. However, this report is not from the Chair. These are queries from the Auditor General. He should be addressing the Auditor General, since we are here to discuss the recommendations of the Committee but the report itself originated from the Auditor General.

**MCA Maralal Ward**, (Hon. Loloju): All right, sit down. Let me show you the way since you are just a passing cloud as usual. I am not going to sit down until I show this particular lady the proper way to proceed. That is not the way to go. What is being read here the Auditor General is not present. It is the Chairperson

who presented it. So I have every right to tell the Chairperson to go and see for themselves what is happening on the ground.

Maybe this report was brought last year, but I want to speak about what is happening this year. So do not come here and lie to us. We have eyes. We are present. I am the newly elected member...

**Specially Elected**, (Silapia): Tell Hon. Loloju to address you not me... he needs to address this house in decorum not...

**The Speaker**, (Lenamarle Stephen): Okay just take your seat Hon. Loloju

**MCA Nachola Ward**, (Lorunyei): Point of order Mr. Speaker.

**The Speaker**, (Lenamarle Stephen): Hon. Lorunyei.

**MCA Nachola Ward**, (Hon. Lorunyei Lawrence): Mr. Speaker I am standing on standing order 100(3) whereby I read.

It shall be out of order to use an offensive language whether in respect of the member of the county assembly or other members. Is the member in order to use that language Mr. speaker, thank you?

**The Speaker**, (Mr. Lenamarle Stephen): Hon. Lemartile.

**MCA Wamba West Ward**, (Hon. Lemartile Francis): Thank you Hon. Speaker. My fellow Hon members should understand that this report is auditor general report. Our issues have been taken by EACC without even have writing. Secondly, I don't see the reason for us to amend, reading the mood of the house, I see majority of the members are dying and slept with the executive. They have not done their oversight job. So, if you have members let us go for decision

(Members disagree, two or three members talking at the same time (inaudible))

**MCA Loosuk Ward**, (Hon. Lenamparasio Phelix): Hon. Speaker some of us have been raising our hands for one hour while some people are speaking here, so if you are not going to be fair then we will talk. The Hon. Deputy speaker has been speaking but I have been raising my hand. You are not giving a chance to speak. You have to be fair; give me a chance I need to speak.



**The Speaker,** (Mr. Lenamarle Stephen): Order Hon Lenamparasio you should respect the House, just keep quiet. Hon. Deputy Speaker.

**The Deputy Speaker,** (Hon. Lelengeju Jackson): I stand on a point of order that we are discussing matters of interest to the public and to the interest to this house. And I don't think there is anything personal to any individual member, to any group or to any side either opposition or anything so called. So, it is demining for a member to stand here and refer members to dining and sleeping with the executive. That's not good language to use in parliament. The member should immediately apologize.

(members disagree, two or three members talking at the same time(inaudible))

**The Speaker,** (Hon. Lenamarle Stephen): Hon. Lenamparasio let me give you a chance. Sorry just take your seat you will speak. Hon. Lemartile I want you to withdraw your statement. Hon. Loloju you will apologize to Hon. Silapia. Just withdraw, both of you withdraw so we can continue. Hon. Lenamparasio.

**MCA Loosuk Ward,** (Hon. Phelix Kaunda Lenamparasio): Thank you so much Hon. Speaker. I stand here to support the report the way it is and I oppose the inclusion of any amendment to this report because of the following reasons. The first reason is I just want to oppose the amendment of any inclusion to this report. You can see am just using my mind to speak I don't have a write-up like the rest of us who are having write ups that are done somewhere else and brought to them to read in this house.

(members disagree, two or more members talking at the same time(inaudible))

**The Speaker,** (Hon. Lenamarle Stephen): Hon. Members let us keep quiet. Let us behave in an orderly manner. Am going to give Hon. Lemoosa a chance because he is the mover of the motion and I will put a question. Hon. Lemoosa is rising on standing order let us give him time.

**MCA Nyiro Ward,** (Hon. Lemoosa Maura Jonathan): Hon. Speaker I want to continue by bringing into this house some sanity. We must be aware of our standing orders. In order actually for anybody to bring an amendment it is a call from the standing order that it has been written and actually provided or submitted to the clerk at least two hours before the session. How else could somebody expect an amendment to be brought by your stipulation or maybe your votes.

Number two, standing order 104 responsibility of statement and facts, this actually members should uphold and with your permission allow me to read. A member shall be responsible for the accuracy of any fact which the member alleged to be true and maybe required to substantiate any such fact instantly. Having in mind that amendment has to be written not actually formulated in your head. We have to read and submit, how can a member think or actually proof by the standing order 104 that what we are reading is actually somebody's else. This is out of order, thank you.

**The Speaker**, (Hon. Lenamarle Stephen): Hon. Lenamparasio, I give you chance.

**Loosuk Ward MCA**, (Hon. Phelix Kaunda Lenamparasio): Thank you so much Hon. Speaker. I just want to read some standing order on how we should do amendments here. I was just reading that standing order that allows any amendment to the motion should be taken to the clerk two hours before the motion. But the reason as to why I never stood as a point of when Lemoosa was reading that amendment is because of the second clause that give the power to the speaker with some exceptional circumstances the reason to introduce an amendment to any motion.

That is the reason why I never stood to point of order on that. But I was not against the amendment written because I know that is the law. But the amendment was only by one person. The other two people were using some write ups that is the reason I said so. And again, if this amendment was supposed to be given to the clerk two hours before the motion starts here, we could have known as members. But I thought may be the speaker is just using some exceptional circumstances to give you permission to do an amendment without taking to the clerk.

So, let me continue; I support this motion the way it is and I seriously oppose the inclusion of any amendment to this report of the following reasons. This the auditor general report that we are discussing in this house. And most of these issues are at the senate. And most of these issues are referred to ethics and anti-corruption by senet. So, am not seeing any reason as to why some members here should fear some issues being forwarded to ethics and anti-corruption. I have some reasons as to why these issues should be forwarded to ethics and anti-corruption.

1: Road inspection: the issue of the roads has been a very big issue here. It is the same this house that have been asking the statements from the department and they do not want to respond. So, how else do you want us to call them here to come and explain the issues that we have in our

wards? With me here is a fourth quarter of the progress report of roads project for the financial year 2023\2024 which is the report that we are debating here. In my ward I have two roads, Ndonyo eloik Ngiriyioi junction to Pura Lesidai junction that's maraming and graveling. And I have a road by the name Lorosoit Lching'ei road. There is a time that we went here with the committee on roads to the three wards; Porro, Loosuk and Sugata ward.

These roads are not even done leave alone being inspected they do not even exist. And with me here, for example Lching'ei Lorosoit was paid three million, six hundred and twelve thousand to Ruhim international limited hundred percent. So, paying a road in my ward that does not even exist and I have gone to the department a number of times to explain to me the reason as to why these roads do not exist in my ward despite the fact that they are being paid and they do not want to explain to me. So, I just want these members to explain to me which other mechanisms should we use to go to these departments to come and explain such issues.

I so pity some members here because in their wards there are so many roads that do not exist and they are here telling us that we should continue asking the department to come explain to us why these roads have been paid and they are not even existing. For my two roads in Loosuk I stand here that ethics and anti-corruption to come and investigate why these roads were being paid, the other one was paid three million eight hundred and sixty-five thousand and five hundred shillings to a company called Kirimon Holding limited.

So, the people of Loosuk send me to this house to represent them. If these roads were existing in my ward, it could have been better for the service delivery of my people. It is even better for Lching'ei - Lorosoit because in 2017\2018 financial year the last regime open that road and it is still the way it was from 2017 to now. Ndonyo Eloik – Ng'eriyioi does not even exist and the chair for roads is here, we were with him on that day. I have been to that department a hundred times to explain this issue but nobody has ever explained to me on such. The water project implementation, in 2024\2025 financial year I had budgeted ten million for a borehole in Alu in Loosuk ward.

Up to now it has never been done and there is no money for that borehole despite the fact the borehole is in budget. There was some allocation for that borehole and I have gone to that department a number of times. I have even planned to take the people of Alu village to that department for them to explain where Alu borehole went. In 2023\2024 we had Alu borehole in

the budget and it was not done. In 2024\2025 I again had that borehole in the budget, the one that has just elapsed recently.

So, for two financial years, the first one was ten million and the second was eight million and nobody knows where this eighteen million have gone to. If this eighteen million could have gone to Loosuk, it could have done a lot to people of Loosuk. I have eleven boreholes that are not functioning. If this eighteen million could have been use to repair the eleven boreholes' people of Loosuk could have been now accessing clean water but what happened to that money nobody knows.

When we go to the department nobody is ready to explain to us where the money went to. So, what else should we do? It is to forward these issues to Ethics and Anti-corruption Authority. They have the mandate, they have the power, more than this Assembly to go and know where this public money has gone. That is the reason as to why I stand here to support this motion as it is. Let be people be responsible. Let people be accountable to public funds. Thank you, Hon. Speaker.

**Specially Elected MCA, (Hon. Lenolkulal Esther):** Nachukua nafasi hii kwa kunipa nafasi, Mheshimiwa Spika kwa sababu nimeunua mkono kwa muda mrefu. Ninasimama kuunga mkono hii report bila amendment yeyote. Nafikiri watu wanaogopa EACC na DCI. Tukiona hii maneno ya roads kwasababu tunasema tusipeleke vitu kwa DCI ama EACC. Ikiwa hakuna makosa, mbona tunaogopa?

Ninashinda tukisema tuko hapa leo kwasababu Mungu ametuwezesha kuwa hapa. Pia kuna watu wengi pale nje wangepaa kuwa hapa, lakini sisi tuko leo. Ikiwa ni sisi tukiwa hapa bungeni ndio tunachangia maneno ya corruption tukisema tunaogopa vitu ziende kwa EACC ama DCI na mamilioni za pesa zinapotea.

Mimi pia nilikuwa na statement ambayo pesa milioni nane ambazo zingesaiddia wakaazi wa Poro zimepotea. Tukiona pia hizi milioni 107 amabzo zimelipwa kwa contractor na hakuna kazi aliyofanya kisha tukiwa hapa kama waheshimiwa tunaongea kusema tunaogopa EACC na DCI. Kama hakuna makosa ama hakuna pesa zimepotea, kwanini tunaogopa vitu viende vile vimeenda?

Mheshimwa Spika hii report imegharimu Assembly kwasababu si report ya siku moja ama ya mwezi mmoja. Tunajua hii report imefika mahali mingi vile tumesikia n ahata kama tutaiangusha kwa hii nyumba sidhani kwamba itaangushwa kwa akili za wananchi ambao hii ni haki yao. Zile pesa tuanzoongelea hapa zinafaa kuwanufaisha wasamburu. Jamii ya wasamburu, Mheshimiwa Spika. Na hapa tinasema tunaogopa EACC. Ikiwa hakuna kitu kimepotea kwanini tunaogopa vitu viende vile vinaenda?

Mambo yam aji, madawa, na vibarua wanaoumia bila mshahara. Tukiwa watetezi wa wanyonge tunakuja hapa kusema tunaogopa. Nilipoingia hii nyumba niliapa kwamba nitafanya haki na nitatetea haki. Ni haki gani ninatetea hapa nikiwa nominated MCA ambaye wamama wananiangalia wakiwa pale nje? Wale wako na shida na vitu vyao vinapotea hapa. Ninaunga mkono hii report kwa njia ilivyo na nafikiri tunasahau ya kwamba tunajua Mungu yupo.

Anatuangalia na kuona ile kazi tunafanyia wasamburu hapa. Kama tulikuja hapa kutetea wanyonge, sijui kama tuna njia nzuri. Pengine tuanwachia Mungu pia atujibu kwa hayo.

**Minority Leader, (Hon. Leleruk James):** Thank you, Mr. Speaker. I rise to thank the committee for the good job they have done. The committee has done its part and the work of this Assembly is either to pass with amendments or to pass without amendments. If the matter is before this house it is upon all of us to give their input or recommendations or amend some issues. I want these honorable members that this house has the same powers as the high court of Kenya. Once a matter has been brought to this house what the honorable member for has brought to this house is just an amendment that for us, we are an oversight authority. We have powers. This matter has not gone beyond our powers that we cannot give room for further clarity or correctness measures.

The issue of EACC and DCI is not a big deal. Yes, the matter can be referred, but as an assembly have, we done our part? Because if the report we pass here, some reports have we have passed and have been acted upon. So, I stand here to support the report with amendment. The issue of DCI and EACC, we have no issue with the Auditor's report. The issue is the committee has recommended. It is not the Auditor-General that recommended that. As an assembly we take the people to the EACC. We still have powers as an assembly to give them the recommended 60 days.

That Mr. Speaker, is the issue that we want to pass as an assembly. That this recommendation that we are amending, the executive must do their work and if within 60 days they have not done what they are required to do. It is not a big deal Mr. Speaker. I do not want to see the members that we are trying. This house is for debates. You can argue your case and if succeeded that is okay. Let us not quarrel as if we are fighting. We are representing the people. Everybody here is elected represent his people and we need service to our people.

Even we say this issue should go to the EACC, will that road be repaired? Will that road be done? It will not, because there is a caveat. We do not want to put the development of Samburu County into caveat by taking people to EACC. EACC will come later but not recommendations from this house. So, I support with amendments.

**MCA Poro Ward,** (Hon. Leerte Patrick): Mheshimiwa Spika nimesema asante kwasababu nilikuwa nimeona kama umenilenga. Mimi kama mwakilishi wa Poro Ward, ningependa kusema machache. Hii report vile nimesoma ama nimesikia kwamba haitoki kwa committee ya PIC/PAC lakini vile honorable members wanachukua ni kama imeandikiwa hapa. Kinachonishangaza ni kama issue ya Barabara.

Nimeshangaa sana kwasababu wakati Mheshimiwa Lemoosa anasema tupewe 60 days na akiwa mwenyekiti wa kamati ya barabara nilimpeleka kwa hiyo barabara ya Poro.

Hon. Lekuchula akiwa Chair na ninataka waamke wakatae, nilimpeleka hiyo Barabara na yule mhandisi tulikuwa na pia Hon. Nakinyi alikuwa alituambia kuwa Barabara haijafanywa na hiyo Barabara ni ya milioni 4. Vitu mingi tunawachilia ziende hata afadhali ile ambayo imefanywa kiasi...

**Mr. Speaker,** (Hon. Lenamarle Stephen): I want to correct something standing order number 1. Statement of facts.

**MCA Nyiro Ward,** (Hon. Lemoosa Jonathan): With all due respect, I think we are mixing some facts. We know very well that the Report is from the Auditor General and what we wish to amend is the recommendation part of it. Which is from the PIAC committee let us get that right. Mothers' road, our standing order state that strict to the motion but not to the nature of roads either done or not. My recommendation is guided by standing order 106,2 That all the bets should be strictly relevant to matters under discussion.

In this case I am proposing a technical committee unlike escalating the matter to EACC or directorate of criminal investigations. I am saying can we capacity build the department by the department by formulating a technical inspection framework. It is a body which is not there but I believe when this is put in place by the department, we will not have these problems of saying this road is done or not. That is just a standing we are introducing, a mechanism to control the shady work or something which does not give us our money back.

Let us understand and also restrict ourselves to the motion but not the nature of roads. Thank you.

**MCA Porro Ward,** (Leerte Patrick): Mheshimiwa Speaker, kama mtu anahaja ya kutetea kitu lazima atakuwa na maneno mengi yakusema. Sio mbaya kuteta lakini ni mzuri kutetea kitu ambayo iko. Sijui kwanini hata watu hawamwogopi Mungu inafika mahali ambayo kitu inafanyika vibaya na unasimama ukisema hiyo kitu tuwache namna hivyo. Mimi naunga Ripoti vile ilivyo na ninapo enda kukaa, kuna njia mingi ya kuua panya sio dawa na kungojea na rungu pekee yake. Vile ambavyo Ripoti itaenda, kuna njia mingi tunaweza kuiangalia sio hii pekee yake. Asante.

**Specially Elected Member,** (Hon. Lenamatiyo Silapia): Thank you Hon. Speaker. I also raise to support the Report as it is but I am not supporting for the amendment. Let me take this time to appreciate and also recommend the work done by the Committee on PIAC for going through the Report of the Auditor General and make their recommendation. I just want to inform this Hon. House with your leadership and guidance that during this scrutiny of this Report. The committee has taken time to call the whole concerned department and give them time to answer the queries raised by the Auditor General.

They have been given time and called to appear before the committee and they have been given time to respond to their queries. But I think up to the time the Committee sat down and came up with this recommendation they have not yet responded. The queries that have circulated to the EACC and the DCI and even those who were given some time to respond they have not done so. And I think these things are done on a timeline and also, I want to tell the Hon. Members, I think everything that is being done by the Executive have the legal framework that guides them on how to do because, let me use an example;



On the issue of this Report page 47, 4.4.2 Irregular fencing work for ECD centers. To my understanding if the Hon. Members were to amend because these are the monies and we are talking about the issues of money. And the Auditor queries that the misuse of money for the documentation, accountability and when you look at here, let me read this Irregular fencing work for ECD centers.

The statement of receipts and payments and Note 9 to the financial statements reflects acquisition of assets amount of Kshs.1,152,259,363. Included in this expenditure is an asset of Kshs.229,838,868 in respect of construction of buildings out of which an amount of Kshs.10,247,500 was used for fencing works of fifteen (15) ECDE centers within the County. However, the winning bidder had failed at the preliminary evaluation for failure to attach an AGPO certificate for youth but the evaluation committee proceeded to recommend the company for the works.

Let me use that example Mr. Speaker, the Hon. Members who are coming up with the amendments have this time again to go and present that AGPO certificate to the Committee? I have gone through this report and brought out a simple example. If that Committee decided to give the bidder the fencing work to do without an AGPO certificate? How are the rest going to be transference on all this audit queries that have been raised here?

If it was me, this one is accountability. If the Hon. Members can present here without documentation to satisfy the queries, then we could have accepted the amendments but this is money, you have to produce the documentation so that we can accept it. But if there is no documentation it is not a matter of talking and having a good English this one is just documentation. But if the concerned department failed to give the Committee and Auditor General such document then, how are we going to help them?

How can the Hon. Members raise up and make their amendments when they have no answer to all these queries? With your guidance Hon. Speaker and leadership, the other day we were here and we have debated and passed the Report on the Auditor General, even those queries that have been given to the department with a timeline for 50,60 and 30 days to answer up to date they have not complied to such resolution of this House. And that is why I am telling the Hon. Members to let the Report go the way it is.



Because when we help these departments to answer us, they will never. they are just there to undermine this House. Because even the resolution of last Report they have not yet responded for the one, we have given them 30, 60 days up to date. These are the money that have been looted in this County. And let the concerned authority give the documentation and let them be transparency on accountability. Thank you.

**Specially Elected Member,** (Hon. Lenamalda Janet): Asante sana Mheshimiwa Spika. Ninashukuru kwa kunipea hii nafasi, nikiungana na top up gender ninaogopa Mungu na lazima tuseme ukweli. Sisi wote tunaunga Samburu County na lazima tuangalie vitu zingine. Kulingana na hiyo Ripoti yenye imeletwa sio mbaya ila tuangalie hiyo EACC na anti-corruption juu hawa watoto wetu wenye wanaenda kwa anti-corruption sio mzuri. Wakati CO mzima imefungwa na watu wa County Assembly wakaenda huko hawataki Watoto wao wafungwe na sio kila siku tutaenda kutembea huko EACC...

**Mr. Speaker,** (Hon. Lenamarle Stephen): Point of order.

**MCA Loosuk Ward,** (Hon. Lenamparasio Phelix): Mheshimiwa Spika ningependa Mheshimiwa aliyekuwa akisimama hapa atueleze anamaanisha nini akisema” Watoto wetu wakipelekwa EACC kufungwa sio mzuri’ na nataka ajue kwamba hii pesa ambayo wamekula ama wametumia vibaya sio yao ila ni ya wananchi na wewe uliletwa kutetea hao wamama hapa na hutakwi tena. Watu ambao wametumia pesa vibaya ya wamama waulizwe pesa iko wapi. Asante Mheshimiwa Spika.

**Specially Elected Member,** (Hon. Lenamalda Janet): Asante Mheshimiwa Spika, kulingana na vile Hon. Lenamparasio anasema tunaelewa vizuri sana. Kabla mpeleke kwa anti-corruption mlete kwanza na muwe na mshauri, makaratasi na mwakilishe. Spika, I support the amendment.

*(Question Proposed, Put and Passed)*

**Mr. Speaker,** (Mr. Lenamarle Stephen): Hon. Members we shall now proceed to vote on the question before the House. I direct that the doors be locked and no member shall leave or enter during this division. The clerk will now call out names and when called respond clearly with YES/AYE if you support the amendment and NO if you do not support it or ABSTAIN.

**Minority leader,** (Hon. Leleruk James): Mr. Speaker because we have stayed here for long and its now afternoon and I think maybe we can write either you are supporting or not. That is my proposal those for the Report and against it to stand up and maybe of the contrary opinion to sit.

**Mr. Speaker,** (Hon. Lenamarle Stephen): Are we in agreement to that?

**Hon. Members:** Yes.

**Mr. Speaker,** (Mr. Lenamarle Stephen): Hon. Silapia and Deputy Speaker come forward.

***Voting***

**Mr. Speaker,** (Mr. Lenamarle Stephen): Hon. Member's total number of who voted are 18 and the absentees are 7. Those who voted YES are 11 and NO are 7. Therefore, the AYES have it. Hon. Members I now put the question to the main Motion.

***(Question Put and Passed)***

**Majority Leader,** (Hon. Lentukunye Christopher): That Pursuant to standing order 31,4 this House resolve to alter its calendar past the afternoon sitting of Tuesday 22<sup>nd</sup> July,2025 in order to allow members to attend a burial ceremony of the Late police Commandant from Porro ward who served this Nation with Honor and dedication. This Assembly shall resume its normal sitting tomorrow as per approved calendar and Standing order. I ask Hon. Lealmusia to second.

*(Hon. Lealmusia bows to second)*

***(Question Proposed, Put and Passed)***

**ADJOURNMENT**

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Hon. Members the time being 19 minutes to one o'clock and there being no any other business this Assembly now adjourns until Wednesday 23<sup>rd</sup> July,2025 at 9:30 am.