Tabled On
13/05/25.

SAMBURU COUNTY GOVERNMENT

COUNTY ASSEMBLY OF SAMBURU

THIRD ASSEMBLY – FOURTH SESSION

PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE

THE REPORT

ON

THE EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE STATEMENTS OF COUNTY EXECUTIVE OF SAMBURU, FOR THE YEAR ENDED 30TH JUNE ,2024.

OFFICE OF THE CLERK
SAMBURU COUNTY ASSEMBLY BUILDINGS
MARALAL.

APRIL 2025

Contents

LIST OF ABBREVIATIONS

CECM	COUNTY EXECUTIVE COMMITTEE MEMBER
COK	CONSTITUTION OF KENYA
PIAC	PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE
PFMA	PUBLIC FINANCE MANAGEMENT ACT
OAG	OFFICE OF THE AUDITOR GENERAL
CPA	CERTIFIED PUBLIC ACCOUNTANT
FY	FINANCIAL YEAR
IPSAS	INTERNATIONAL PUBLIC SECTOR ACCOUNTING STANDARDS
CALC	COUNTY ASSETS AND LIABILITIES COMMITTEE
PPADA	PUBLIC PROCUREMENT ASSET AND DISPOSAL ACT
PDA	PUBLIC AUDIT ACT
CECM	COUNTY EXECUTIVE COMMITTEE MEMBER
PSASB	PUBLIC SECTOR ACCOUNTING STANDARDS BOARD
KRA	KENYA REVENUE AUTHORITY
SRC	SALARIES AND RENUMERATION COMMISSION.

BACKGROUND

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. CEC Finance and Economic Panning 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 30th 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**.**

COMMITTEE PROCEEDINGS

Mr. Speaker,

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.vbccbv

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**

COMMITTEE MANDATE

Mr. Speaker,

The Public Investments and Accounts Committee (PIAC) as grounded in the County Assembly Standing Orders Number 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*

LEGAL FRAMEWORK

1. 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—*

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

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

   i. *The burden of taxation shall be shared fairly;*

   ii. *Revenue raised nationally shall be shared equitably among national and County governments; and*

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

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

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

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

2. Article 229 of the Constitution *The OAG is mandated under Article 229 of the Constitution to audit the 47 County Governments and any entity that is funded from Public Funds whether at the County or national government level The Auditor-General is very critical in the governance structure of the country because his core mandate is to provide assurance to the citizens. This assurance is transmitted through the peoples' oversight organ which is the peoples' representatives -*

These principles include:

1) Principles on Public Finance

Article 201 of the Constitution of Kenya sets out principles shall guide all aspects of public finance in the Republic—

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

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

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

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

The Public Investments and Accounts Committee will on the premise of the aforementioned Constitutional provisions hold all individual Accounting Officer(s) and other Public Officers jointly and severely liable for any loss of public funds under their control.

The Committee has and will continue to invoke these provisions in its recommendations to hold those responsible accountable.

This is also intended to serve as a deterrent measure on the misuse of Public Resources.

ACKNOWLEDGEMENT

Mr. Speaker,

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. The commitment and devotion to duty of all those involved in this arduous task made the work of the Committee and production of this report a success. I thank each one of them.

Mr. Speaker,

Further, the Committee wishes to thank all the stakeholders for their participation in the public inquiry. The Committee is also grateful to the media for highlighting proceedings during investigations, thus enhancing accountability and transparency of the exercises as espoused in Article 34 and 35 of the Constitution of Kenya 2010.

The committee comprised of the following members who have affixed their signatures to validate the report.

1. **Hon. Francis Lemartile -Chairperson.........................**
2. **Hon. Stephen Kagiri - V/Chair ....**
3. Hon. Esther Lenolkulal -Member ....
4. Hon. Christopher Lentukunye-Member ....
5. Hon. Jeremiah Leitoro-Member..............................

Mr. Speaker,

On behalf of the Public Investments and Accounts Committee, and pursuant to the provisions of Standing Order Number 188 of this Assembly, it is my pleasant duty to table the **Report on the Examination of the Report of the Auditor General on Statements County Executiv of Samburu for the Year Ended 30th June, 2024** its inquiry for debate and adoption by the House.

HON. FRANCIS LEMARTILE
CHAIRPERSON PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE

COUNTY EXECUTIVE OF SAMBURU REPORT OF THE AUDITOR–GENERAL FOR THE YEAR ENDED 30 JUNE, 2024

1.0 REPORT ON THE FINANCIAL STATEMENTS.

1.1 Unconfirmed Cash and Cash Equivalents & Operation of Commercial Bank Accounts

The statement of assets and liabilities and Note 13A 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 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.

Management Response;

Management state that the amounts in question relates to either funds receivable from Executive recurrent vote of KES 90,310,760.60 initially borrowed from the County Deposit Account in order to facilitate occasional activities during times of delayed cash inflows from the National Treasury and funds receivable from suppliers of KES 11,887,522.60, being retention amounts with-held from suppliers.

The County Executive intends to provide for the refunds in our next supplementary budget process to settle amounts borrowed by the County Executive. Consequently, amounts with-held from suppliers as 10% retention amounts will be followed and remitted to the deposit account.

Attached as **annexure 1** is a schedule of the breakdown of the amounts in question and FY 2023/24 annual cash book and bank reconciliation statements..

Attached as **annexure 2A** are copies of the approval status of the bank accounts in question, **annexure 2B** are dates when the accounts had been opened, **annexure 2C** are the certified copies of the signatories to each of the accounts and finally **annexure 2D** are copies of certificate of balances of the accounts as of 30th June 2024.

Finally, the bank accounts could not be disclosed under other important disclosures since the structure of the reporting template as recommended for use by both the National Treasury and the Public Sector Accounting Standards Board does not provide for this disclosure. Going ahead to provide for this would have raised the question of inconsistency in our reporting process.

Committee Findings and Observations

i. 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

ii. The committee observed that Management provided an extract of the cashbook and bank reconciliation confirming that the receipts recorded in the cash book and not recorded in the bank statements refer to the borrowings the County Executive had made to the Deposit Account.

iii. The committee observes that inter - borrowings are an inherent risk and the Management has not provided measures or mitigations to stop the same in the future

iv. The committee marked the above queries resolved.

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 under-utilization.
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.

2.0 EMPHASIS OF MATTER

2.1 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.

Management Response;

The table below vividly presents our overall budget vs actual receipts for the year ended June 2024;

Annual Rev. Budget	Exchequer Receipts (Executive)	Under Funding
6,977,942,770	**6,406,286,200**	**571,656,570**

Management asserts that the annual revenue budget includes the County Assembly's Annual budget, it therefore follows that exchequer receipts to the County Assembly should be taken into account thereby giving an under funding of KES 571,656,570 interpreted as 8% of the budget. Additionally, Mr. Chairman, June 2024 CARA allocation of KES 447,544,995 remained undisbursed till 26th July 2024 and therefore treated as a carry over into the FY 2024/25. Chair, taking this into account therefore, the under-funding further drops from KES 571,656,570 to KES 124,111,575 hereby interpreted as only 2% of the annual budget.

Attached as **annexure 3** is the annual CRF bank statement for the year showing the flow of funds from the National Treasury.

Management analyzed actual receipts against actual expenditure specifically by the County Executive;

Actual Receipts from Exchequer	Actual Expenditure	Under Utilization
5,724,353,308	5,666,818,805	57,534,503

The bulk of the under-utilization mentioned relates to KES 41,500,000 belonging to the Climate Change Fund (FloCCA) disbursed in the month of June 24 and remained unspent due to limited implementation time.

The annual CRF budget showing the late disbursement of KES 41,500,000 is attached as the same **annexure 3.**

Committee Findings and Observations

i. Management asserts that the annual revenue budget includes the County Assembly's Annual budget, and as such, exchequer receipts to the County Assembly should be considered in the overall receipts. Taking this into account, the under-funding reduces to Kshs. 571,656,570, or 8% of the budget. Furthermore, the June 2024 CARA allocation of Kshs. 447,544,995 remained undisbursed until 26th July 2024 and was therefore carried over to FY 2024/25. Consequently, when factoring in this carryover, the under-funding decreases further to Kshs. 124,111,575, or 2% of the annual budget.

ii. The committee notes that this is reccuring matter from FY 2022/2023. and management has done minimal efforts in addressing matters of budgetary performance

iii. The committee marks this query unresolved.

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.

2.2 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.

Management Response;

Manangement states that this being a national challenge affecting Counties across the country, Samburu County April to June 2024, CARA allocation had been receipted in the timelines mentioned

Committee Findings And Observations

i. Exchequer releases amounting to Kshs.1,454,521,248 were received during the month of June, 2024 and August, 2024.
ii. The late Exchequer releases delayed implementation of the County Executive's for the year under review.
iii. The committee marked this query unresolved.

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.

2.3 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.

Management response

Management states that at the commencement of FY 2023/24, pending bills as outlined in annex 2 and annex 4 of financial statements stood at KES 208,786,719 and KES 132,535,604 respectively. So far a total of KES 33,954,258 of annex 2 and KES 40,127,024 of annex 4 have so far been settled leaving a balance of KES 174,832,461 and KES 92,408,580 for annex 2 and annex 4 respectively.

Attached as **annexure 4** is the updated list of the questioned bit of pending bills and the corresponding evidence of payments made

Committee observation and Findings

i. The county excutive had 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.

ii. Evidence provided indicates that during the 2024/2025 financial year Management has partially settled the pending bills
iii. The committee partially marked this query resolved.

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.

KEY AUDIT MATTERS

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

3.0 OTHER MATTER

3.1 Unresolved prior year matters

The statement of comparison of budget and actual amounts for the year under review reflects final expenditure budget and actual on comparable basis of Kshs.6,262,198,006 and Kshs.5,622,023,300, respectively, resulting to an under-spending of Kshs.640,174,706 or 10.2% of the budget.The under-performance affected the planned activities and may have negatively affected service delivery to the public.

Management Response;

Management states that , not much had been achieved in resolving issues raised in prior year audit exercises since their closure depends on invitations by either the County Assembly or the Senate's Public Accounts Committee. This particular invitation also covers FY 2021/22 and it is our desire that issues raised then will be resolved

Committee observations and recomendations

The committee observed that management response on this matter was inadequate. The County Government does not require senate sessions to implement audit recommedations. However, the Committee on Public Accounts and Investment Committee and the county Assembly to expedite review of the Auditor general reports .

4.0 REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

4.1 COMPENSATION OF EMPLOYEES

4.1.1 Non compliance with the law on fiscal responsibility on the wage bill.

The statement of receipts and payments and Note 3 to the financial statements reflects compensation of employees' balance of Kshs.2,272,177,408 or 41% of the total receipts of Kshs.5,550,672,020. The County Executive therefore exceeded the 35% limit set under Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 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 the circumstances, Management was in breach of the law.

Management Response;

(i) Exceeding the Approved Wage Bill Limit

- The increase in the wage bill was primarily due to reason, such as recruitment of essential personnel, salary adjustments per government directives, implementation of CBA agreements, etc.
- However, we recognize that the wage bill exceeded the legal threshold of 35% of total revenue, and we are taking corrective measures to align with fiscal responsibility laws.

(ii) Unapproved Recruitment and Payroll Expansion

- The recruitment of additional staff was necessitated by specific reason, e.g., service demand, healthcare expansion, emergency response, etc.
- Moving forward, all hiring processes will strictly adhere to the approved budget and workforce plans.

2. Corrective Actions and Compliance Measures

To ensure compliance with the **Law on Fiscal Responsibilities on Wage Bill**, we are implementing the following measures:

a) Enforcing Budgetary Controls

- All salary adjustments and new hires will be subjected to budget approval and fiscal responsibility limits.

b) Regular Payroll Audits

- A quarterly payroll review will be conducted to detect and prevent future non-compliance issues.

c) Reducing Wage Bill through Workforce Optimization

- Staff redeployment and rationalization will be considered to manage costs without affecting service delivery.

d) Strict Adherence to Employment Policies

- Future recruitments will align with approved staff establishment and revenue projections.

Samburu County Government reaffirm our commitment to full compliance with fiscal responsibility laws and are working closely with relevant authorities to rectify all identified issues. We welcome further guidance and will submit progress reports on the implementation of corrective actions

Committee Findings and Observations

i. The county executive compensation of employees' balance of Kshs.2,272,177,408 or 41% of the total receipts of Kshs.5,550,672,020.

ii. The County Executive therefore exceeded the 35% limit set under Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

iii. The committte was not satisfied with management responses and marked this query unresolved.

Committee recommendation

i. That Management ensures that the expenditure on wages and benefits for public officers is within the legally set limit of 35% of the County's total revenue, as stipulated under Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.
ii. That Management ensures no positions are filled that are not defined in the staff establishment to prevent unnecessary wage bill expansion.
iii. That the County Executive should optimize its own-source revenue collection to increase financial capacity and reduce dependence on the wage bill.

4.1.2 lrregular staff recruitment

The statement of receipts and payments and Note 3 to 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 County Public Service Board (CPSB), advertisement, applications, shortlisting, interviews and selection of successful candidates were not provided for audit confirmation contrary to Section 60(1)(c) of the County Governments Act, 2012.

Management Response;

The recruitment of staffs for the Governor's Delivery Unit (GDU) was not conducted in accordance with applicable laws, regulations, policies, or government circulars. We acknowledge the need for strict adherence to recruitment policies and are committed to implementing necessary corrective measures and in the Financial year 2024-25 the Samburu County Public service board issued an advisory for the revocation of irregularly recruited staffs to County Secretary and head of public service, who issued a letter to Payroll manager to stop the salaries for Thirty-Four (34) staffs whose employment were revoked by the County Public Service Board.

Chair, the Board also received a letter from the County Secretary and Head of public service indicating an action note that arose from the cabinet meeting on the Establishment of Government Service Delivery Unit and the Board in their meeting resolved to establish the Government Service Delivery Unit in the Department of Finance to enhance **service delivery, policy coordination, and project monitoring** within the county as per approved Organogram and the Budget.

Attached as **annexure 5**, is the revocation letter, an internal memo to payroll instructing stoppage of salaries and board minutes on the establishment of GSDU.

Committee Findings And Observations

i. The county executive spent an amount of Kshs.60,069,840 to twenty-nine (29) staff members under the "Governors Delivery Unit for the year under review.

ii. The committee confirms that this is a recurring matter from FY 2022/2023 and management has done too little to resolve this matter

iii. The unit was not provided for in the approved organization structure and the duties and responsibilities of the members were not defined

iv. Management states that Governor's Service Delivery Unit was established through an executive order, and approved by the cabinet on 7th July 2023.

v. The committee confirms that County Public Service Board (CPSB), advertisement, applications, shortlisting, interviews and selection of successful candidates were not provided

vi. In the absence ,of involvement of County Public Service Board (CPSB) marked this query unresolved.

Committee recommendation.

i. That ,The County Public Service Board (CPSB) and ccounty secretary be held liable for negating on their responsiblitilty in approving the recruitment, selection and appointment of Governor delivery unit officers. A report on 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 Mangement should Provide termination evidences 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.

4.1.3 Salaries paid outside intergrated payroll and personnel Database system.

The County Executive paid an amount of Kshs.319,651,201 as salaries to staff members outside the Integrated Payroll and Personnel Database (IPPD) system. Approximately three hundred and fifty (350) officers in the County Executive were being paid outside IPPD payroll system. This was contrary to Section 1.5.1 of The National Treasury Financial Accounting Recording and Reporting Manual which requires salaries, allowances or arrears of County Government employees to be processed through Integrated Payroll and Personnel Database (IPPD).

In the circumstances, existence of effective internal controls on payroll could not be confirmed.

Management Response;

Management wishes to have a single integrated payroll system that takes on board all our staffing. However, this was not the case due to the following unavoidable reasons;

a) New transferees from other government agencies and departments – occasionally we receive staff transferred from other government entities but who fail to immediately bring their bio data for integration into the County's IPPD system.

b) Newly employed County Staff still on probation, awaiting personal numbers.

Nonetheless Mr. Chairman, I wish to affirm that now all the county employees are paid through IPPD. Attached as **annexure 6** is an internal memo dated 10th September 2024, from the County Secretary to all staff advising closure of the manual payroll and a copy of our commitment letter to the Office of Controller of Budget of our undertaking to halt operations of manual payroll by 31st Dec 2024.

Committee Findings and Observations

i. The County Executive paid an amount of Kshs.319,651,201 as salaries to staff members outside the Integrated Payroll and Personnel Database (IPPD) system.

ii. Approximately three hundred and fifty (350) officers in the County Executive were being paid outside IPPD payroll system

iii. The committee confirms that this is a recurring matter from FY 2022/2023 and management has done too little to resolve this matter

iv. The committee observed that, the Management has since stopped the manual payroll

v. The committee expects all salaries to be paid on the IPPD and marks this query resolved.

4.1.4 Non compliance with staff ethnic diversity.

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 thirty-three (33) employees. However, twenty-nine (29) or 88% were from the dominant ethnic community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff, and that 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.

Management response

Management states that ,the imbalance noted in our staff ethnic composition is be attributed to the following reasons;

-Most of the County Government Staff were inherited from the defunct Local Authorities and the National Government Ministries. The bulk of the staffing inherited were from the dominant ethnic community.

-Geographical and security challenges also plays a role in deterring new prospective employees.

Nonetheless, Mr. Chairman, effective 1st July 2021 to date, this trend has been reversing as other communities are now highly represented. **Annexure 7** is Samburu County's up to date report which indicates a drop from the earlier 88% to the current 76%.

Committeeee observation and findings.

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.

ii. The committee agreed with the progress made by management in addressing Section 7(1) of the National Cohesion and Integration Act, 2008.

Committee recommendation

That, deliberate efforts be made during recruitment on specific skills that will target the intended threshold of the constitutional requirement

4.1.5 Non compliance with guidelines on Acting positions .

The County Executive of Samburu paid thirteen (13) staff members acting allowance for a duration exceeding six (6) months amounting to Kshs.1,302,641. This was contrary to Section C.14(1) of the Public Service Commission, Human Resource Policies and Procedures Manual May, 2016 which states that when an officer is eligible for appointment to a higher post and is called upon to act in that post pending advertisement of the post, he is eligible for payment of acting allowance at the rate of twenty percent (20%) of his substantive basic salary. Acting allowance will not be payable to an officer for more than six (6) months.

In the circumstances, Management was in breach of the law

Management Response

Management states that , from the payroll schedule provided by the payroll department hereby labelled as **annexure 8**, only two staff members acting period exceeded the 6-month threshold prescribed by regulations.

It is worth to note that the two staff members that had acted for the period beyond six months was because of two main reasons;

i) Their acting period fell during the absence of the Secretary to the Board who had resigned leaving the position vacant for an extensive period of time. Their confirmation could therefore not be effected.
ii) The substantive Chairperson to the Board had an active case in Court and was therefore on interdiction. As such, confirmation of the Acting Chair could only be implemented upon determination of the case which dragged past the six-month threshold.

Attached as part of the **annexure 8**, are contract renewal letters for the staff members mentioned.

Committee Findings and Obersvations

i. The County Executive of Samburu paid thirteen (13) staff members acting allowance for a duration exceeding six (6) months amounting to Kshs.1,302,641 for the year under review.

ii. The committee observed that only two staff members acting period exceeded the 6-month threshold prescribed by regulations.

iii. The Management has provided letters for the employees who were in acting positions and given an explanation on why they acted in those positions for more than six (6) months.
iv. The committee was satisfied with management explanation and marked this query resolved.

4.1.6 Irregular engagement of casuals .

The statement of receipts and payments and 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.

Management Response

Management states that due to the nature of activities that take place at the referral hospital, engagement of casuals had become inevitable.

As such, the County Government took the necessary steps in their engagement that include issuance of appointment letters (hereby provided as **annexure 9**) clearly spelling out the duties to be executed and also ensuring that each casual employee is paid through bank

Committee Observations and Findings

i. The county executive spent an amount of Kshs.36,441,690 on casual workers in the Health Department for the year under review.
ii. The Management has justified the use of casual workers in the health department and has attached sample letters for the engagement.
iii. However, there is no evidence of staff rationalization to assess the need for casuals. In addition, Management has not responded to the issue of engaging the casuals more than three (3) months
iv. 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.
v. The committee was partially satisfied with the management responses.

Committee recommendation

i. That ,The Management to carry out staff rationalization before engaging casuals for optimal utilization of human resources.

ii. That, Management should not engage casuals for more than three (3) months to prevent the County from being subjected to litigation

4.1.7 Non remittance of statutory deductions

The statement of receipts and payments and 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

Management response

Mr. Chairman, I would like to confirm that of the total amount mentioned, Samburu County has so far managed to settle the bulk as follows;

i) Laptrust KES 62,202,869.80
ii) NSSF KES 7,558,131.00

However, Chair, KES 2,174,040 being amount owed to NSSF deduction for June 2024 is yet to be settled. We commit that we will settle this outstanding amount in due time.

Attached as **annexure 10** are schedules breakdown of the transactions above, their corresponding settlement returns and copies of the bank statements confirming their settlement.

Committee Observation and Findings

i. The county executive spent an amount of Kshs.160,248,535 in respect of pension and social security benefits (employer contribution to compulsory National Social Schemes).

ii. 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.

iii. The committee observed that Management has provided bank statement extract of payment of statutory dues to Laptrust amounting to Kshs.62,202,869 and NSSF amounting to Kshs.7,558,131.

iv. The committee was satisfied with the management responses and marked this query resolved.

Committee recommendation

That , Management to ensure all statutory deductions are paid promptly to avoid penalties and interests.

4.2 USE OF GOODS AND SERVICES.

4.2.1 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.

Management response

We wish to state that the company is in the category of similar goods that is cereals and pulses.

Under Sec 114 of PPADA 2015, a procuring entity maybe enter into a framework agreement open tender if-

a. The procurement value is within the thresholds prescribed under Regulations to the Act.

b. The regulations of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement

c. When implementing a framework agreement, a procuring entity may;

- Procure through call-offs order when necessary or
- Invite Mini-competition among persons that have entered into the framework agreement in the respective category.

Finally, we used the mini-competition under framework agreement Regulation 114 3(b) because of the quantity variation of goods in different school terms.

Committee Observation and Findings

i. The county executive spent an amount of Kshs.31,080,000 for purchase of foodstuffs for Early Childhood Development and Education (ECDE) centers within the County.

ii. The committee observed that Management justified the use of framework contracting as outlined under Section 114 of the Public Procurement and Asset Disposal Act.

iii. Management has not explained why one company was awarded a tender for a category they were not contracted for.

iv. The marked this query partially resolved.

Committee recommendations

i. That Management must at all times strictly comply with the provisions of the Public Procurement and Asset Disposal Act, 2015 and its Regulations, particularly in regard to the use of framework agreements and mini-competitions.

ii. That Management should adhere strictly to the approved procurement categories when awarding contracts under framework agreements to avoid irregularities.

iii. That the matter be referred to the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) for investigations into potential procurement irregularities and financial loss to the County Government.

4.2.2 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

Department.

In the circumstances, the value for money from the training expense of Kshs.62,997,084 could not be confirmed.

Management Response & Committee Observation And Findings

i. The county executive spent 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.

ii. Management did not prepare quarterly returns on trainings that took place during the financial year and gauge their effectiveness.

iii. 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.

iv. The committee was not satisfied with management response and marked this query unresolved.

Committee recommendation

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.

4.2.3 Irregular Payments to Council of Governors and Frontier Counties Development Council

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.437,848,253 in respect of other operating expenses out of which an amount of Kshs.3,000,000 and Kshs.3,604,800 were payments for annual subscription to the Council of Governors and Frontier Counties Development Council respectively.

However, the operational expenses for the Council of Governors an entity established under Intergovernmental Relations Act, 2012 are supposed to be provided from the annual estimates of the National Government while Frontier Counties Development Council has not been established under the law to receive public funding. This was contrary to Section 162 of the Public Finance Management Act, 2012 which requires a public officer to ensure that resources within the officer's area of responsibility are used in a way that is lawful and authorized, effective, efficient, economical and transparent.

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

Management response.

Management states that a conglomerate of like-minded County Governments entered into an MoU on 2nd March, 2016 to form Frontier Counties Development Council to among other things create an enabling environment for wealth and job creation of its citizens. Samburu County Government joined the Council on 12th Sept 2018. In FY 2023/24, Samburu County made its annual contribution of KES 1,500,000 in line with the MoU and the approved budgetary allocation for the activity.

Attached as **annexure 13** is the FCDC Memorandum of Understanding and the extract of the budgetary allocation under other operating costs.

Committee Findings And Observations.

i. The county executive spent an amount of Kshs.3,000,000 and Kshs.3,604,800 for annual subscription to the Council of Governors and Frontier Counties Development Council respectively.

ii. The operational expenses for the Council of Governors an entity established under Intergovernmental Relations Act, 2012 are supposed to be provided from the annual estimates of the National Government while Frontier Counties Development Council has not been established under the law to receive public funding.

iii. The committee was not satisfied with management responses and marked this query unresolved.

Committee recommendations

The payments are not supported by any law thus unlawful. Future payments be stopped till there is an authority in place to support the expenditure.

4.2.4 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.

Management Response;

The department did not have budget allocation for market survey. As a result, the process was an open tender hence the prices were competitively bided. Considering factors of materials purchase, transportation, vastness of the three Sub-Counties, distance and fixation of playing materials, the prices were fairly reasonable hence justified.

As per the BQ specifications, the tunnel refers to the small house like structure that children pass through before sliding. Finally, as for the swings during the time of purchase only 2 seat swing was available in the market and the price of 2 and 3 seat swing was the same price according to the supply.

Attached as **annexure 14** are the relevant documentation for reference purposes.

Committee Findings And Observations.

i. The county executive spent an amount of Kshs.8,978,099 used for purchase of learning and playing materials for ECDE centers within the County.

ii. The committee observes that 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.

iii. 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.

iv. Management has not provided evidence on why they received materials of different specifications including The referenced annex 13.

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.

4.2.5 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.

Management Response;

Management states that the late commitments relate to payments made for staff medical insurance and for fuel both amounting to KES 130,577,757. These goods and services were considered very essential at the time and whose procurement had been considered as high priority. The delays were also occasioned by delays of supplementary budget process which in turn depended on approvals by the County Assembly.

Attached as **annexure 15** are copies of transactional documents for the above mentioned transactions and copies of supplementary budget approval process.

Committee Findings and Observations

i. The county executive committed /contracted 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.

ii. The Management has not provided written approval from the Accounting Officer for the late commitments that were done during the year under review.

iii. The committee marked this query unresolved.

Committee recommendation

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 and 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 is 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.

Management response

The Samburu County's Emergency Fund has not been fully developed to assume an autonomous status due to the following missing prerequisites;

i) Absence of its own regulations
ii) Absence of the committee that represent its top decision making organ
iii) Absence of separate bank account.

As a result, expenditures are incurred from the recurrent bank account and therefore financial statements are embedded in the wider recurrent vote

Committee observations and findings

i. The county executive spent 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.

ii. The County Executive did not prepare and submit financial statements for the Emergency Fund to the Auditor-General

iii. The committee marked this query unresolved.

Committee recommendation.

i. That, The County Treasury shall establish a fully functional Emergency Fund in accordance with the provisions of Section 110 to 115 of the Public Finance Management Act, 2012**,** including the development of enabling regulations, establishment of a governing committee, and opening of a separate bank account. A comprehensive progress report on the establishment of the Emergency Fund shall be submitted to the County Assembly by 30th June 2025**.**

ii. That, The Accounting Officer is hereby reprimanded for incurring expenditures amounting to Kshs.293,178,575 from public resources without proper legal and regulatory framework, in contravention of the Public Finance

Management Act, 2012.

4.3.2 Municipality of Maralal.

The Municipality of Maralal Board was awarded a Charter in January, 2019. However, Management has not prepared, and submitted financial statements to the County Executive Committee Member for onward transmission to the Office of the Auditor General. This was contrary to Section 46(2) of the Urban Areas and Cities Act, 2011 which states that within a period of three months after the end of each financial year, the board or town committee shall submit to the County Executive Committee its accounts for that year for transmission to the Auditor-General.

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

Management response

Manangement states that unlike the formation of other funds, operationalization of Maralal Municipality presented the following unique characteristics;

i) It did not have its set of regulations passed at the County Assembly like other funds
ii) Transactions commenced in Jan 2019, reporting had since been generated as a sub department within Lands and Physical Planning.
iii) Upon being queried in FY 2023/24 audit report, Management moved with speed to facilitate reconstruction of the six year missing financial statements and subsequently submitted to the Office of Auditor General for review.

Management would also like to mention that this particular issue was discussed at length and way forward provided by the Senate's Public Investments Committee on Funds upon our appearance on 21st March 2025.

Committee Findings and Observations

i. The Municipality of Maralal Board was awarded a Charter in January, 2019.

ii. Management has not prepared, and submitted financial statements to the County Executive Committee Member for onward transmission to the Office of the Auditor General during audit period.

iii. The Committee observed that Management submitted financial statements for Maralal Municipality on 03 March, 2025. The financial statements will be included in the 2024/2025 audit plan

iv. The committee marked this query resolved**.**

4.4.1 Stalled Construction of Inpatient Block at Samburu County Referral Hospital

The County Executive of Samburu entered into a twelve (12) months contract with a local company for the construction of inpatient block at the Samburu County Referral Hospital on 30 March, 2022 at a contract sum of Kshs.116,951,010. As at 30 June, 2024, the contractor had raised a (3) certificates all amounting to Kshs.107,790,785 and which had been fully paid.

Project inspection carried out on 17 September, 2024 revealed that the contractor was not on site and doors, windows, finishes, electrical works, sanitary fittings and foul drains and lift shaft had not been done. No explanation was provided on why the contractor was not on site and why the works were still incomplete.

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

Management response.

Manangement acknowledges the audit findings regarding the certification and payment for incomplete works. This situation highlights a significant oversight in project management and adherence to contractual obligations. We have launched an internal investigation into the circumstances surrounding the certification process and the contractor's performance. This includes reviewing documentation, meeting with the inspection committee, and consulting with the Department of Public Works. Additionally, all further payments to the contractor are suspended pending the outcome of the investigation and verification of completed works.

To prevent future issues, we will enhance oversight mechanisms for project inspections and certifications. This will involve establishing stricter criteria for certifying completed work and requiring documented evidence before approving payments. We will also implement a regular monitoring and reporting framework for ongoing projects to ensure compliance with timelines and specifications. We greatly appreciate the audit team's findings and recommendations. We are taking immediate steps to address the identified issues and prevent similar occurrences in the future. Our commitment to accountability and transparency remains a priority as we work to ensure the successful completion of the inpatient block project for the benefit of our community.

Committee Findings and Observations

i. The County Executive of Samburu entered into a twelve (12) months contract with a local company for the construction of inpatient block at the Samburu County Referral Hospital on 30 March, 2022 at a contract sum of Kshs.116,951,010.
ii. The county executive has paid an amounting to Kshs.107,790,780 out the contract sum of kshs. 116,951,010.
iii. Project inspection carried out on 17 September, 2024 revealed that the contractor was not on site and doors, windows, finishes, electrical works, sanitary fittings and foul drains and lift shaft had not been done.

iv. The committee marked this query unresolved.

Committee recommendations

i. That, The members of the Inspection and Acceptance Committee, the Project Engineer who certified the three (3) payment certificates totaling Kshs.107,790,785, and the responsible Accounting Officers be held personally liable for approving payments without verifying actual work done on site, in contravention of public procurement and financial management laws.

ii. That, The Accounting Officer shall immediately suspend any further payments to the contractor, initiate recovery of any overpayments made, and submit a comprehensive investigation report to the County Assembly within thirty (30) days from the date of adoption of this report.

iii. That, The matter be escalated to the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) for further investigation into possible procurement fraud, financial mismanagement, and abuse of office, with a view to pursuing appropriate legal action and recovery of public funds.

4.4.2 Irregular Fencing Works for ECDE 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 amount 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.

Further, audit inspection carried out during the month of September, 2024 in sampled schools revealed that the fencing works were done with untreated cypress posts which were already being damaged by termites. In addition, the Bill of Quantities and payment certificates provided different descriptions for the fencing works where, the Bill of Quantities required, the contractor to use treated cypress posts but the payment certificate done by the quantity surveyor indicated the certified works were done with concrete posts, which was contrary to what was implemented.

In the circumstances, the value for money in the expenditure of Kshs.10,247,500 could not be confirmed.

Management response

Manageent states that the winning bidder had attached a valid AGPO Certificate for youth as required in the tender document (REG NO - NT/PPD/2023/DGY/9596).

Consequently, the contractor adhered to the Bills of Quantity (BQs) which indicated that the fence were to be done by treated cypress posts but not concrete posts as indicated by the quantity surveyor's payment certificate, thus the error squarely fell quantity surveyor.

Attached as **annexure 16** are the necessary documentation for reference purposes.

Committee Findings and Observations

i. The county executive spent an amount of Kshs.10,247,500 was used for fencing works of fifteen (15) ECDE centers within the County.
ii. 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.
iii. At the time of audit inspection carried out during the month of September, 2024 in sampled schools revealed that the fencing works were done with

untreated cypress posts which were already being damaged by termites.

iv. The committee observes that Management has provided the AGPO certificate for the winning bidder. However, at the time of tender opening, the bidder had not attached the same.

v. The committee marked this query unresolved

Committee recommendations

i. That, The officer(s) responsible for awarding the contract to a bidder who failed preliminary evaluation requirements, including failure 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.

ii. That, The matter be escalated to the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC) for comprehensive investigation into possible procurement irregularities, falsification of documentation, and financial loss to the County Government.

iii. That, The County Executive ensures that all future procurement processes strictly adhere to the Public Procurement and Asset Disposal Act, 2015, and that all contract documentation, including Bills of Quantities and payment certificates, accurately reflect the actual works implemented on the ground.

4.4.3 Stalled 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 January, 2022 for a total contract sum of Kshs.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.45,000,000 for the construction of Governors' residences. As at 30 June, 2024, an amount of Kshs.60,440,153 had been paid to the contractor for the works. However, documents to confirm the exemption of the above over-expenditure on Governor's Official Residence by the Senate were not provided for audit. Further, the deadline of 30 June, 2022 for the completion of the residence had been surpassed as provided by the Salaries and Remuneration Commission.

Physical inspection carried out on the month of September, 2024 showed 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 and the Project had stalled for more than one year. Site security was not enhanced as evidenced by presence of livestock in the structure leading to damages on the floor.

Further, despite an amount of Kshs.3,142,625 out of Kshs.6,285,250 being paid for electrical works, security system and firefighting appliances, none had been installed. Additionally, the two gates, two guard house and four gazebos fully paid for in the two certificates issued had not been completed at the time of the inspection.

In the circumstances, the value for money on the expenditure of Kshs.60,440,153 could not be confirmed.

Management response.

The Salaries and Remuneration Commission (SRC) had issued a ceiling of KES. 45,000,000 for the construction of Governors' residences, however, as per the Engineer's estimate, the cost of the house stands at Ksh. 45,000,000 exclusive of perimeter wall and gazebos.

When the department of Lands allocated the land for construction of the Governor's residence, it was prudent to fence the entire piece to avoid encroachment for future developments. The Bill of Quantities was therefore varied to include the perimeter wall and gazebos which formed part of the project. Management observes that it is important to mention that the project subsequently was queried by ethics and Anti-Corruption and active investigations are currently on going led by the Commission.

Attached as **annexure 17** are the necessary documentation for reference purposes.

Committee Findings and Observations

The matter is under investigation by EACC.The committee marked this query unresolved

Committee recommendations

i. That, The Ethics and Anti-Corruption Commission (EACC) be formally notified to provide a comprehensive status report on the progress of its ongoing investigations into the stalled construction of the Governor's official residence, including issues of potential procurement irregularities, financial mismanagement, and breach of statutory ceilings.

ii. That, The County Executive be directed to immediately enhance site security to prevent further damage to the partially completed works and preserve public assets pending the conclusion of investigations and decision on the way forward.

4.4.4 Insufficient Budgetary Allocation for the Construction of ECDE Latrines

The statement of receipts and payment and Note 9 to the financial statements reflects acquisition of assets amount of Kshs.1,152,259,363. Included in this expenditure is an amount of Kshs.229,838,868 in respect of construction of buildings. In the year under review, management awarded a contract for construction of sixty (60) ECDE pit latrines to a local company at a contract sum of Kshs.32,301,200 or Kshs.535,020 per pit latrine as per the contract dated 10 November, 2023. However, it was noted that as per the approved supplementary budget, only twenty (20) ECDE pit latrines were approved for construction with a budget of Kshs.12,000,000. The budget reduction was done after the County Executive had entered into a contract worth Kshs.32,301,200 and works for the same were ongoing. This was contrary to Section 53(8) of Public Procurement and Asset Disposal Act, 2015 which requires that an Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

In the circumstances, Management was in breach of the Law

Management response .

The department had initially issued the LPO for construction of 60 pit latrines. However, a Supplementary budget process was subsequently conducted by the County executive and part of the funds were re-allocated to perimeter wall fence of an ECD centre. Unfortunately, the ECD Centre was burned down by bandits in the insecurity prone area within Loosuk ward.

The department has since renegotiated with the contractor to finish up the forty (40) ECD pit latrines as per the LPO, promising that additional funding will be allocated in the subsequent financial year for the completion of the works.

Finally, , It is important to underscore that the budget was removed during the last quarter of the financial year, when the LPO had already been issued and the contractor was already in site. This re-allocation of the budget was as a result of an emergency situation as a result of insecurity following the burning down of the ECDE Centre.

Attached as **annexure 18**, are the necessary documentation for reference purposes.

Committee Findings and Observations

i. The county executive spent n amount of Kshs.229,838,868 in respect of construction of buildings.
ii. Management awarded a contract for construction of sixty (60) ECDE pit latrines to a local company at a contract sum of Kshs.32,301,200 or Kshs.535,020 per pit latrine as per the contract dated 10 November, 2023.
iii. The approved supplementary budget had only twenty (20) ECDE pit latrines approved for construction with a budget of Kshs.12,000,000. The budget

reduction was done after the County Executive had entered into a contract worth Kshs.32,301,200 and works for the same were ongoing.

iv. Management asserts that budget was removed during the last quarter of the financial year, when the LPO had already been issued and the contractor was already in site. This re-allocation of the budget was as a result of an emergency situation as a result of insecurity following the burning down of the ECDE Centre.

v. The justification on reallaction was inadequate and the committee marked this query unresolved.

Committee recommendations

i. That, Management renegotiates the contract with the contractor to align the scope of works with the funds available under the approved supplementary budget to avoid future contractual disputes and financial obligations beyond budgeted limits.

ii. That, The completion of the remaining works be considered a priority and factored into the subsequent financial year's budget**,** with a clear implementation plan and funding provision to ensure project completion without further legal or audit queries.

iii. That, The Accounting Officer be cautioned to strictly adhere to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015**, w**hich prohibits commencement of procurement without confirmation of sufficient budgetary provision, to prevent similar budget violations in the future.

4.4.5 Inadequate Inspection of Roads Project

The County Executive awarded tenders for the construction of roads amounting to Kshs.169,859,258. However, review of the payment vouchers revealed that only standard inspection sheets that are normally used for goods and services were used by the inspection and acceptance committee for the 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.

Managenet response.

Manangement,states as follows;

- The inspection of roads was done adequately by ensuring the specification and quantities in the bill of quantities are done.
- All payments are supported by a payment certificate which has a measurement sheet of quantities done.
- We have predetermined inspection procedures as follows
    - i. Handing over site to contractor
    - ii. Inspection during actual construction of project
    - iii. Final inspection and measurement of quantities when the contractor has completed works
    - iv. Preparation of payment certificates as per the measured quantities.

Attached as **annexure 19**, are the necessary documentation for reference purposes.

Committee Findings and Observations

i. The County Executive awarded tenders for the construction of roads amounting to Kshs.169,859,258 for the year under review.
ii. The Management has not provided evidence that works of technical nature are inspected through use of measurement sheets as per the quantities outlined in the bills of quantities. The Management has been relying on standard inspection sheets for technical works.
iii. The committee marked this query unrsolved.

Committee recommendations

i. 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.

ii. 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.

iii. 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.

4.4.6 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.

Management response.

Initially, Maralal Market was a World Bank-funded project with a budget of Ksh. 53,981,760 (50,000,000 from KUSP grants while 3,981,760 was counter funding from county government).

However, after its completion, the County Government and the Maralal Municipality Board passed a formal resolution to add an extra floor to maximize space and accommodate more traders. An additional contract worth Ksh. 20 million was signed for this extension as shown in annexure 2A- min 4/4/2023

The Board also directed that no traders should occupy the market until the construction is fully completed to ensure safety and provide adequate facilities for all traders.

Regarding waterproofing, it is important to clarify that bitumen application was used as an alternative to mastic asphalt. Bitumen is a standard waterproofing material that serves the same purpose and ensures the roof's durability and protection against water seepage. The choice of bitumen was informed by its versatility, higher adhesion, bonding property and flexibility in accommodating expansion in structures as compared to asphalt since the building in question has expansion joints.Upon the completion of the Maralal retail market in May 2024, the County embarked on a process to ensure fairness and transparency in available space allocation taking in to consideration those trading in old market and new applicants. This involves a rigorous vetting process where interested tenants will be invited to apply. The allocation process for new applicants has been planned for April this year, and we aim to ensure that the allocation is done equitably to benefit the community and enhance economic activities within the market. Additional consideration will include gender parity, disability, youth and minority

During the audit inspection conducted in September 2024, it was observed that the contractor was present at the site, and finishing works were actively being carried out and thus an active construction site under the jurisdiction of the contractor. Since then, the works have been completed, and the market is now ready for use. The site no longer has overgrown bushes or the heaps of waste soil mentioned. As indicated in the attached pictures of the market, the site is now well-maintained and in a satisfactory condition. Provided as **annexure 19B** are minutes of the board.

Committee Findings and Observations

i. 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.
ii. 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
iii. 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.
iv. Maralal Market was a World Bank-funded project with a budget of Ksh. 53,981,760 (50,000,000 from KUSP grants while 3,981,760 was counter funding from county government).Upon its completion, the County Government and the Maralal Municipality Board passed a formal resolution to add an extra floor to maximize space and accommodate more traders.
v. The committee marked this query partially resolved**.**

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.

4.4.6 Irregular Implementation of Water Projects

The statement of receipts and payments and Note 9 to the financial statements reflects acquisition of assets amounting to Kshs.1,152,259,363. Included in this expenditure is Kshs.233,838,868 in respect of construction and civil works out of which an amount of Kshs.37,725,094 and Kshs.49,954,293 was used for desilting of dams and drilling and equipping of boreholes respectively. Audit inspection revealed that the dams had not been excavated and expanded and the materials hauled to the dam embankments as per the Bill of Quantities. In addition, the dams had no signage erected for the projects and hence it was difficult to ascertain whether the works were carried out during the year under review.

Further, 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.

Management response.

Management states that most of the Samburu county land is under group ranches where in some areas no land demarcation exercise has been done. Although in some areas demarcation is going on, the department is liaising with the department of Lands and the beneficiary communities to acquire the necessary land ownership documents.

- **Hydrogeological Survey Reports by registered Hydrogeologist**: The hydrogeological survey reports of the 6No.boreholes sites are available and hereby attached as **annexure 20.**
- **Environmental Impact assessment**

The department had initiated the process of assessment however, like the WRA approval, issue on land ownership documentations for the specific borehole sites is one of the paramount parameter requirement during the EISA acquisition process. Due to the above scenario still the department is pursuing the process of acquiring land Title Deeds from the community owned land (Group Ranches).

WRA Permit.

For the WRA to offer a borehole drilling authorization and water permits, land ownership documentation for the boreholes sites is one of the mandatory requirement during authorization requisition stage. Nevertheless, the department is closely following up these land ownership documents from relevant authorities in order to fulfil the WRA mandatory requirements for permit acquisition and issuance.

- **Water Analysis Reports:**

Water analysis reports are available and hereby attached as **annexure 21**

i) **Ntepes Borehole: - Lack of a Water Kiosk.** Water Kiosk was supposed to be constructed but during the borehole drilling upon the contractor reaching slightly above the 100m depth the hole started caving in and subsequently collapsing which forced the contractor to use temporary casings and had to change from air aided drilling to Mud- drilling, this necessitated a lot of expenditure but upon seeing that no further drilling can be achieved, the department instructed the contractor to abandon and cap the borehole and another site was established where a new hydrogeological survey was undertaken and drilling was done that yielded positively.

As per the Project payment certificate, the water Kiosk was not inclusive base on the above discussed reason.

The department instructed the contractor to construct a communal water point where the community will be fetching water from alongside the watering trough.

ii) Sere Eloikari Water Kiosk Construction.

In the designed document the Kiosk was supposed to be constructed on the source but immediately establishment of irrigation farms was evident and after the department having a consultative engagement with the targeted community and agreeing on the relocation of the water Kiosk to the said area then the department instructed the contractor to construct the said water Kiosk within a nearby ECD – school which is about 1Km from the drilled borehole. The department also instructed the contractor to construct a communal water point where a relatively lower population of people living near the source will access water for their domestic consumption. In addition, the department is on higher plan gear of allocating finances to connect the kiosk with water.

Committee Findings and Observations

i. The county executive spent an amount of Kshs.37,725,094 and Kshs.49,954,293 used for desilting of dams and drilling and equipping of boreholes respectively.
ii. Inspection revealed that the dams had not been excavated and expanded and the materials hauled to the dam embankments as per the Bill of Quantities.
iii. 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.
iv. The committee observed that Most of the responses not addressing the issue raised and the committee marked this query unresolved.

Committee recommendations

i. 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.

ii. 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.

iii. 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.

iv. 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.

4.4.7 Irregular Procurement of Breeding Stock

The statement of receipts and payments and Note 9 to the financial statements reflects acquisition of assets balance of Kshs.1,152,259,363. Included in this expenditure is an amount of Kshs.234,286,586 in respect of purchase of certified seeds, breeding stock and live animals out of which an amount of Kshs.75,600,000 and Kshs.55,800,000 was used for the purchase of camel and cattle breeds, respectively. However, criteria used in identification of beneficiaries and report on need assessment and sustainability of the projects were not provided for audit.

Further, the distribution forms provided for audit review could not be verified as most were prepared by one clerk and the majority of the beneficiaries acknowledged receipt through fingerprints and some lacked contact details of the beneficiaries. This was contrary to Section 104 of the County Governments Act, 2012 which provides that a County Government shall plan for the County and no public funds shall be appropriated outside a planning framework developed by the County Executive Committee and approved by the County Assembly and that to promote public participation, non-state actors shall be incorporated in the planning processes by all authorities.

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

Management response.

The department acknowledges the need for more detailed documentation in the distribution process. In response, we have instituted new measures to ensure that reports clearly outline the allocation of camels per location.

This will further enhance the accuracy and transparency of future distributions, as well as improve coordination between delivery and inspection teams.

Attached as **annexure 22** are the necessary documentation for reference purposes

Committee Findings and Observations

i) An amount of Kshs.75,600,000 and Kshs.55,800,000 was used for the purchase of camel and cattle breeds, respectively.
ii) The criteria used in identification of beneficiaries and report on need assessment and sustainability of the projects were not provided for audit.

iii) The Management has provided the planning of camel, Sahiwal beneficiaries identification and distribution meeting minutes that were used as the criteria for the identification and distribution to beneficiaries. In addition, the Management has provided the Samburu County Livestock Development Policy.

iv) The committee observes that management have instituted new measures to ensure that reports clearly outline the allocation of camels per location.
v) The policy was in draft form and is yet to be approved by the County Assembly
vi) The committee marked this query unresolved.

Committee recommendations

i. 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.

ii. 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.

iii. 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.

iv. That, The management continues to enhance coordination between delivery and inspection teams to improve transparency in distribution and accountability.

4.4.8 Irregular Procurement of Mobile Phones and Laptops

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 amount of Kshs.37,026,805 in respect of purchase of office furniture and general equipment out of which an amount of Kshs.1,800,000 and Kshs.1,199,996 was used to purchase mobile phones and laptops respectively.

However, requisitions for the mobile phones and laptops and evidence of market survey were not provided for audit. In addition, the list of beneficiaries for the mobile phones and laptops was not provided for audit and the phones and laptops were not provided for inspection. This was contrary to Section 149

(1)(a)(b) of the Public Finance Management Act, 2012 which states that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized and effective, efficient, economical and transparent.

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

Management response

Manangement states that the procurement of mobile phones and laptops was conducted in adherence to our internal procurement policies.

However,the documentation may not have been provided during audit. We are currently undertaking a review of our records to gather the necessary purchase requisitions and the required market survey conducted to substantiate the procurement of Mobile phones together with the list of beneficiaries, internal policy and all other related documentation. Attached as **annexure 23**, are the necessary reference documentation.

Committee Findings And Observations

i) The county executive spent an amount of Kshs.1,800,000 and Kshs.1,199,996 to purchase mobile phones and laptops respectively for the year under review.

ii) The requisitions for the mobile phones and laptops and evidence of market survey were not provided for audit.

iii) The list of beneficiaries for the mobile phones and laptops was not provided for audit and the phones and laptops were not provided for inspection.

iv) The committee was not satisfied with the management response and marked this query unresolved.

Committee recommendations

i. 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.
ii. That, The management improves the accountability and safeguarding of county assets**,** ensuring due process is followed in all procurements to prevent wastage and theft.

4.4.9 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.)***
Health	*16,969,070*
Sports and Youth Affairs	*27,926,050*
Livestock	*7,481,316*
Education	*4,994,860*
Total	***57,371,296***

This was contrary to Section 162(1) of the Public Procurement and Asset Disposal Act, 2015 which requires that an Accounting Officer of a procuring entity shall ensure that all assets are accounted for and put into proper use as intended by the procuring entity.

In the circumstances, the value for money on the expenditure amounting to Kshs.57,371,296 could not be confirmed.

Management response

Management states that during the period of audit most of the project were not utilized but the current overview of the projects is provided below,

PROJECT	CURRENT STATUS
Construction of Nachola Outpatient Block	The project is complete and the Department have budgeted for furnishing and equipping of the facility.
Construction of Keleswa Dispensary	The project is complete and the Department have budgeted for furnishing and equipping of the facility.
Construction of South Horr Outpatient Block	The project is complete and in use, The project was officially launched by H.E Governor.
Construction of Simale Dispensary	The project is complete and in use, The project was officially launched by H.E Governor and Health staff posted as per posting order 2/2025
Construction of Lesoit Naibor Dispensary	The project is complete and the Department is equipped and staff posted as per posting order 2/2024.
Construction of Milgis Dispensary	The project is complete and the Department have budgeted for furnishing and equipping of the facility.
Construction of Masikita Simiti Dispensary	The project is complete and the Department have budgeted for furnishing and equipping of the facility.

Attached as **annexure 24**, are the necessary reference documentation

Committee Findings And Observations

i. The County Executive completed various projects at a cost of Kshs.57,371,296 for the year under review
ii. Management states that during the period of audit most of the project were not utilized but the current overview of the projects identified are utilized.
iii. The committee observed that there is progress in putting the projects into use and marked this query partially resolved.

Committee recommendations

The committee expects that the procuring entity to ensure that Section 162(1) of the Public Procurement and Asset Disposal Act, 2015 is adhered to. The committee expects a report within 30 days upon adoption on status of unutilized projects.

4.4.10 Long Outstanding Imprests

The statement of assets and liabilities and Note 14 to the financial statements reflects outstanding imprest and advances balance of Kshs.39,270,626. The imprests had not been surrendered long after their due dates and the Management had not made any progress in initiating recoveries. This was contrary to Regulation 93(6) of the Public Finance Management (County Governments) Regulations, 2015 which states that in the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

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

Management response.

Management states that the total receivable amount currently stands at KES 39,270,626. This is made up of the following components;

i. Ksh.15,527,402.00 relates to a Receivable amount from County Assembly of Samburu – These are expenses incurred by the County Executive on behalf of the County Assembly during the transition period, in the first quarter of FY 2015/16 when Assemblies became separate entities from the County Executives. The management has in the past made demands to the Clerk for this refund unfortunately this has not been honored to date. Attached as **annexure 25A** is a copy of the letter sent to Clerk of the County Assembly demanding the refund. The breakdown of the transactions totaling to the mentioned amount is also provided in the same letter.

ii. Ksh.24,853,016 is the outstanding imprest for previous years. Attached as **annexure 25B** is a schedule the updated status on the recoveries made and IPPD generated reports on recoveries made.

Committee Findings And Observations.

i) The County executive has an outstanding imprest and advances balance of Kshs.39,270,626 for the year under review.

ii) A total amount of Ksh.15,527,402.00 relates to a Receivable amount from County Assembly of Samburu incurred during transition period 2015/2016.

iii) A total of Ksh.24,853,016 is the outstanding imprest for previous years

iv) The committee observed that Management has not outlined how the outstanding imprests will be recovered.

v) The committee marked this query unresolved till all recoveries are made plus the interest .

Committee recommendations

i. The committee recommends that, all outstanding imprests are recovered from the individual officers pursuant to Regulation 93(6) of the Public Finance Management (County Governments) Regulations, 2015 .
ii. That, Management Institutes a recovery plan and submit periodic status to the Assembly.

4.4.11 Irregular Commitments of Equalization Funds

The County Executive committed an amount of Kshs.566,090,060 through issuance of Local Purchase Orders (LPOs) for various infrastructural projects in the Water, Roads and Health departments financed through the Equalization Fund. However, at the time of the audit in September, 2024 the County had not received the equalization funds which they were to receive for the 2023/2024 financial year.

Further, review of the Project Implementation Status Report, revealed that the contractors had completed the works and had raised payment certificates which at the time of the audit had not been paid for lack of funding contrary to Section 53(8) of the Public Procurement and Assets Disposal Act, 2015 which states that Accounting Officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

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

Management response.

The fund was established by an act of parliament, the National Treasury has so far managed to disburse KES 215M equalization funds so far to facilitate settlement of the bills that arose following successful implementation of the projects.

Attached as **annexure 26** is the list of approved project list by the CEO Equalization fund

Committee Findings And Observations

i) The County Executive committed an amount of Kshs.566,090,060 through issuance of Local Purchase Orders (LPOs) for various infrastructural projects in the Water, Roads and Health department

ii) The Management has provided the current status of the equalization projects and that the National Treasury has already disbursed 215 million for the settlement of the same.

iii) In addition, the Management has provided the list of the projects that was approved by the Equalization Fund Board

iv) The committee was satisfied with management response and marked this query resolved.

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

5.1 LACK OF RISK MANAGEMENT POLICY

As previously reported, Management did not provide evidence of the existence of a Risk Management Policy to guide its management on risk management assessment and formulation of risk mitigation strategies in the year under review. This was contrary to the Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires Accounting Officer to develop risk management strategies which include fraud prevention mechanisms and internal control that builds robust business operation.

ln the circumstances, it was not possible to confirm whether the internal controls built within the financial and operational system were functional as intended.

Management Response;

Following an official visit to the County by the Public Sector Accounting Standards Board last year, the County Officials requested the engagement of the board to help develop Samburu County's Risk Management Policy, to which the board was gracious enough to agree to our request. A follow up officially written request has since been drawn and sent and currently we are awaiting feedback from the Board. It is my hope Mr. Chairman, that this activity will kick off in the near future. A draft letter to the Public Sector Accounting Standards Board is hereby attached as **annexure 27.**

Committee Findings And Observations

i) The management does not have Risk Management Policy to guide its management on risk management assessment and formulation of risk mitigation strategies in the year under review.

ii) The committee confirms that the management has engaged County by the

Public Sector Accounting Standards Board in develop Samburu County's Risk Management Policy, to which the board.

iii) The committee marked this query partially resolved

Committee recommendations.

i. The accounting officer should ensure that submissions of documents and explanations are availed to external auditors at the highest hour of request to avoid immaterial audit observation which is costly to the county. The accounting officer is hereby **REPRIMANDED.**

ii. The committee expects that Management to approve the Risk Management Policy to guide its management on risk assessment and formulation of risk mitigation strategies within **30days** upon adoption of this report.

5.2 WEAKSNESSES IN INTERNAL AUDIT

Review of the staff establishment and the list of staff in the Internal Audit Department revealed that the Department has only two (2) active staff against the staff establishment of sixteen (16). The remaining staff had been seconded to other departments at the County Executive.

Further, during the year under review, the County Executive's Organizational Structure was not provided to be able to ascertain the operational independence of the Internal Audit Unit by confirming that the Head of Internal Audit reports functionally to the Audit Committee and administratively to the Accounting Officer. This was contrary to Section 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that The Head of Internal Audit unit in a County Government entity shall enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

In the circumstances, existence of effective processes and systems of internal controls, risk Management and overall governance could not be confirmed.

Management Response;

The county government acknowledges the shortfalls on its internal audit staffing and will endeavor to address the shortage by recruiting more staff

Committee Findings And Observations

i) The county has shortfalls on its internal audit staffing and the list of staff in the Internal Audit Department revealed that the Department has only two (2) active staff against the staff establishment of sixteen (16).

ii) A total of 14 members of audit department have been seconded to other departments in the county executive.

iii) The County Executive's Organizational Structure was not provided to be able to ascertain the operational independence of the Internal Audit Unit by confirming that the Head of Internal Audit reports functionally to the Audit Committee and administratively to the Accounting Officer.

iv) The committee marked this query unresolved.

Committee recommendations

The county secretary is hereby required to redeploy all officers transferred to other departments to the audit department. The committee expects a report within 30 days upon adoption of this report.

6.0 CONCLUSION

Mr. Speaker,

A. The Committee urges the County Executive to implement its recommendations so that the County can achieve its vision to be a leading county government in effective and efficient utilization of essential resources, provision of essential services, industrial growth and development initiatives for improved quality of life for all.

B. The County Executive must demonstrate commitment to financial discipline, transparency, and value for public money. The Committee will monitor compliance and initiate sanctions for persistent non-compliance where necessary

C. All partially addressed and unresolved issues should be followed up by the County Treasury and action reports tabled within one quarter.

D. The Auditor General should conduct a follow-up audit within six months to verify implementation of corrective measures.

E. The Senate PAC should be formally briefed on unresolved issues requiring national policy interventions.

F. The Committee recommends the Ethics and Anti-Corruption Commission (EACC) and Directorate of Criminal Investigations (DCI) to fast-track investigation of audit queries flagged for potential procurement and employment irregularities.

Therefore, I urge this Honorable House to adopt the report with or without amendments.

7.0 ADOPTION SCHEDULE

Mr. Speaker, Sir

We, the Members of the Committee on Public Investment and Accounts Committee do hereby affix our signatures to confirm the accuracy and authenticity of this report.

Hon. Francis Lemartile	**Chairperson**	
Hon. Stephen Kagiri	**Vice-Chairperson**	
Hon. Esther Lenolkulal	Member	
Hon. Christopher Lentukunye	Member	
Hon. Jeremiah Leitoro- Member	Member	