

REPUBLIC OF KENYA

Telephone: +254-(20) 3214000
E-mail: info@oagkenya.go.ke
Website: www.oagkenya.go.ke

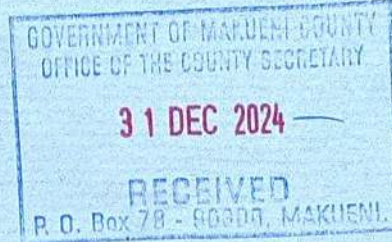


HEADQUARTERS
Anniversary Towers
Monrovia Street
P.O. Box 30084-00100
NAIROBI

OAG/MRO/MKN CE/2023/2024/ (1)

30 December, 2024

Mr. Kevin Mutuku
Clerk of the Makueni County Assembly,
P. O. Box 572- 90300
MAKUENI

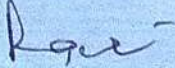


Dear Sir,

REPORT OF THE AUDITOR-GENERAL ON MAKUENI COUNTY EXECUTIVE, COUNTY REVENUE FUND, RECEIVER OF REVENUE AND COUNTY ASSEMBLY FOR THE YEAR ENDED 30 JUNE, 2024

I transmit the report on the examination and audit of **Makueni County Executive, County Revenue Fund, Receiver of Revenue and County Assembly** for the year ended 30 June, 2024 in accordance with the provisions of Article 229(7) of the Constitution of Kenya for your necessary action as required by Article 229(8) of the Constitution.

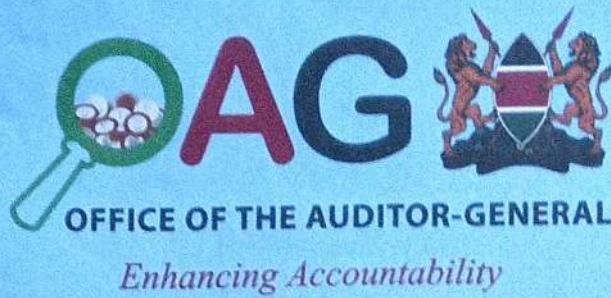
Yours sincerely


Pamela Mugalisi
For: AUDITOR-GENERAL

Copy to: **H.E. Hon. Mutula Kilonzo Jnr**
Governor
County Government of Makueni
P.O. Box 78 - 90300
MAKUENI

Damaris Kavoi ✓
C.E.C.M. Finance Planning and Budgets
County Government of Makueni
P.O. Box 78 - 90300
MAKUENI

REPUBLIC OF KENYA



REPORT

OF

THE AUDITOR-GENERAL

ON

COUNTY EXECUTIVE OF MAKUENI

FOR THE YEAR ENDED
30 JUNE, 2024

REPUBLIC OF KENYA

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

PREAMBLE

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

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

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

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

Report of the Auditor-General on County Executive of Makueni for the year ended 30 June, 2024

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Makueni set out on pages 1 to 51, which comprise of the statement of assets and liabilities as at 30 June, 2024 and the statement of receipts and payments, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit.

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

Basis for Qualified Opinion

Misclassification of Expenditure

The statement of receipt and payments and as disclosed in Note 4 to the financial statements reflect use of goods and services amount of Kshs.2,223,221,100 which includes Kshs.992,838,761 for other operating expenses. However, review of sampled payment vouchers revealed that payments totaling Kshs.54,886,832 were irregularly charged to other operating expenses instead of acquisition of assets and compensation of employees. Management did not provide an explanation as to why the transactions were not budgeted for and charged to the appropriate expense code.

In the circumstances, the accuracy of the expenditure on use of goods and services of Kshs.2,223,221,100 could not be confirmed.

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

Emphasis of Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts (recurrent and development) reflects final receipts budget and actual amounts on a comparable basis of Kshs.10,233,333,653 and Kshs.8,373,777,028 respectively, resulting to an under-funding of Kshs.1,859,556,625 or 18% of the budget.

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

2. Pending Accounts Payables

Annexes 2 and 3 to the financial statements on analysis of pending accounts payables reflects pending bills balances of Kshs.676,145,218 and Kshs.10,685,614, for pending accounts payables and pending staff payables respectively totalling Kshs.686,830,832 which were not settled as at 30 June 2024. Although Management indicated that the bills were not settled due to non-release of the June, 2024 exchequer allocation and rescheduling of obligation of Kshs.118,252,653 due to the Local Authority Pension Fund (LAPFUND), no evidence was provided to confirm that the pending bills formed first charge in the subsequent year.

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

My opinion is not modified in respect of these matters.

Key Audit Matters

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

Other Matter

Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. However, Management has not resolved all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Although Management has indicated several reasons for failure to resolve prior year matters such as, funds meant for operationalization of the municipality being spent by the County executive, budget lines not aligned to the financial statements and that contribution to

Council of governors was through instructions from the Council of governors, no evidence was provided for audit review.

Other Information

Management is responsible for the other information set out on page iii to lxiii which comprise of Key Entity Information and Management, Governance Statement, forward by the CECM Finance and Economic Planning, Statement of Performance Against County Predetermined Objectives, Environmental and Sustainability Reporting and Statement of Management Responsibilities. The Other Information does not include the financial statements and my audit report thereon.

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

My opinion on the financial statements does not cover the Other Information and accordingly, I do not express an audit opinion or any form of assurance conclusion thereon.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

1. Regularity of Human Resource Management Practices

1.1 Non-Compliance with One Third Rule of Basic Salary

Review of the payroll data revealed that one hundred and eighty-seven (187) employees earned a net pay below a third of their basic pay during the month of June, 2024 contrary to Section 19(3) of the employment Act, 2007 which requires total deductions made from salaries not to exceed two-third of the basic pay and Section C.1(3) of the Public Service Commission (PSC) - Human Resource Policies and Procedures Manual for the Public

Service (2016), which stipulates that, public officers shall not over-commit their salaries beyond two thirds (2/3) of their basic salaries.

In the circumstances, Management was in breach of the law and this may expose the staff to pecuniary embarrassment.

1.2 Non-Compliance with Law on Ethnic Diversity

Review of the County Government master roll and other staff records indicated that Makueni County Government recruited one hundred and thirty-two (132) employees out of which one hundred and twenty-five (125) or approximately 95% are from the dominant ethnic community in the County. This is contrary to Section 65(1) (e) of County Governments Act, 2012 which requires that at least thirty percent of the vacant post at entry level are filled by candidates who are not from the dominant ethnic community in the County and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, "all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community". Although Management indicated that they have made deliberate effort to have a wider circulation of the advertisements for posts and encouraging other community members to apply, the results are yet to be realized.

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

1.3 Failure to Meet Recruitment Threshold on Persons with Disabilities

During the financial year under review, the County Government recruited a total of thirty-two (132) employees, out of which four persons with disability were hired which translates to 3%. No explanation was given for failure to meet the threshold of 5% as stipulated in Section B.23 (2) of the Human Resource Policies and Procedures on Rights and Privileges of Persons with Disabilities.

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

1.4 Non-Compliance with Fiscal Responsibility on Wage Bill

The statements of receipts and payments and as disclosed in Note 3 to the financial statements reflect compensation of employees amount of Kshs.3,837,996,248 which represents 46% of the total receipts of Kshs.8,259,693,356. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 and Section 107(2) (c) of the Public Finance Management Act, 2012 which requires that the County Government's expenditure on wages and benefits for its public officers shall not exceed 35% of the County Government's total revenue. Although Management indicated that the increase in wage bill was as a result of various policies and legal requirements such as mandatory Wage increases as per the Salaries and Remuneration Commission (SRC) circulars and

implementation of the Health Workers' Collective Bargaining Agreement (CBA), no measures have been put in place to address the matter.

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

2. Regularity of Procurement and Award of Contracts

2.1 Delay in Project Operationalization - Kyumbuni and Kalawani Post Harvesting Facility

The County Government through the Department of Agriculture, Livestock, Fisheries and Cooperative Development entered into two contracts with two firms on 24 July, 2020. The contracts were for the construction and equipping of post harvesting facilities (cold room pack houses) at Kalawani (Tulimani) and Kyumbuni (Mbitini) Wards. The contract sum for each Project amounted to Kshs.36,458,529 all totaling Kshs.72,917,058 out of which an amount of Kshs.71,501,906 was certified and paid to the contractors as at 30 June 2024. The projects were completed and handed over on 28 June 2024. However, physical inspection carried out on 11 September 2024 revealed the following anomalies:

- i. The two projects had not been fully operationalized despite the County incurring cumulative expenditure amount of Kshs.71,501,906.
- ii. The equipping and reticulation of boreholes at Kalawani and Kyumbuni had not been done.
- iii. External/civil works and land scaping at Kalawani facility had not been procured.
- iv. There were visible buckling/cracks on the floor at Kyumbuni facility.
- v. The access road to Kalawani facility had not been done.
- vi. The County Management had not put in place security measures including fencing of the compound with a perimeter wall to safeguard the facility assets.
- vii. Management did not provide documentary evidence to demonstrate any further action to procure the remaining works and operationalize the cold room pack houses.

2.2 Kilungu Post Harvesting Facility Project

The County Government through the Department of Agriculture, Livestock, Fisheries and Cooperative Development entered into a contract on 30 July 2020 for the Construction and equipping of post harvesting facility (Cold Room Pack Houses) at Kalongo, Kilungu ward. The contract sum was Kshs.35,990,490 out of which an amount of Kshs.33,740,490 was certified and paid as at 30 June, 2023. Review of the Project records revealed that key and pertinent components listed below had not been done to enable full operationalization of the facility as at the time of the audit in September, 2024;

- i). Equipping and reticulation of the bore hole.
- ii). External and civil works and land scaping.
- iii). Erection of electrified perimeter wall and gate house.

Management did not provide documentary evidence to demonstrate any further action to procure the remaining works and fully operationalize the cold room pack house.

2.3 Kasikeu Grain Milling Facility

The County Government through the Department of Agriculture, Livestock, Fisheries and Cooperative Development entered into a contract for the supply, delivery, installation, testing, training and commissioning for Kasikeu grain milling plant at a contract price of Kshs.6,415,000. The contract period commenced on 12 April 2022 for a period of two months. The contract period was extended eight (8) times with a final extension of 20 January, 2023. The contractor however failed to discharge the contract and the contract was terminated on 23 January, 2023. In addition, the tender had not been re-awarded eighteen months later since the termination of the contract. No plausible explanation was provided to justify the delayed procurement of the grain milling plant and operationalization of facility.

2.4 Project Implementation Status

Review of the County annual development plan and County annual progress report revealed that the County allocated funds totalling Kshs.2,589,473,040 for the implementation of six hundred and thirty-five (635) Projects during the year ended 30 June, 2024. Out of the 635 projects, four hundred and sixty-six (466) with a total allocation of Kshs.1,492,673,567 were complete, one hundred and thirty-one (131) projects at a budgeted cost of Kshs.965,597,676 were ongoing, thirty-two (32) Projects budgeted at Kshs.96,054,832 had not started while six (6) projects with a budget amount of Kshs.35,146,971 had stalled. Management did not provide satisfactory explanation for the delayed completion for all the Projects and measures put in place to complete the Projects.

2.5 Stalled Project for Mulima Water Project

The County Government through the Department of Water and Sanitation awarded a contract on 25 May, 2017 at a contract sum of Kshs.3,000,956. Review of the Project file and physical inspection of the Project on 16 September, 2024 revealed the following anomalies:

- i. The contract did not specify the completion period

- ii. The Project had stalled and the contractor was not on site.
- iii. The contractor supplied and installed one set of electric motors and multistage centrifugal surface pumps instead of two as indicated in the approved bill of quantities.
- iv. Repair of the masonry tanks at Mavindu Forest, Ntungoni and Kikalyoni had not been completed.

2.6 Delayed Project Implementation

The County Government allocated a total of Kshs.351,735,259 for the implementation of sixty-seven (67) Projects by the Department of Health Services. Out of the sixty-seven Projects, forty-two (42) Projects worth Kshs.235,365,812 were complete, eighteen (18) Projects budgeted at a cost of Kshs.67,653,477 were ongoing while three (3) Projects costing Kshs.6,890,000 had not started. In addition, construction of Mbooni Isolation Ward and upgrading of Matulani Dispensary with a combined budget allocation of Kshs.29,825,970 had stalled. Management did not provide satisfactory explanation on the delayed project completion and measures put in place to complete the projects. The management explained that several incomplete Projects were inherited from the previous regime and phased approach has been adopted to complete the Projects as resources become available.

In the circumstances, the public did not benefit from the funds expended since the intended services were not received.

3. Other Non-Compliance

3.1 Failure to Observe End of the Year Cut-Off Procedures

The statement of receipts and payments reflects an amount of Kshs.8,259,693,356 and Kshs.8,168,030,249 in respect to total receipts and total payments respectively. However, review of the cashbooks and schedules including internet banking statements revealed that receipts and payments amounting to Kshs.1,121,367,449 and Kshs.707,690,719 respectively were received and expensed in the month of July, 2024, which is outside the year under review. Management explained that the receipts and payments were made to clear commitments made prior to 30 June, 2024 and were authorized by The National Treasury. However, approval from The National Treasury was not provided for audit verification.

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

3.2 Irregular Payments to The Council of Governors

As previously reported, the statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects use of goods and services amounting to Kshs.2,223,221,100. Included in the amount is other operating expenses of

Kshs.992,838,761 which includes an amount of Kshs.3,600,000 to the Council of Governors. This is contrary to Section 37 (b) of the Intergovernmental Relations Act of 2012 which states that the operational expenses in respect of the structures and institutions established in the Act shall be provided for in the annual estimates of the revenue and expenditure of the National Government to cater for the Council of County Governors. Management explained that the County Governments were issued with minutes resolutions and requests letters to support the programs for the Council and hence the expenditure.

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

The audit was conducted in accordance with ISSAI 3000 and ISSAI 4000. The standards require that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements comply in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

Basis for Conclusion

Under Staffing of the Internal Audit Services

The approved County staff establishment provides for the Internal Audit Services Department headed by a Director. The Directorate has two divisions including Internal Audit and Internal Control, Policies and Systems Divisions each headed by a Deputy Director. However, review of the staff establishment revealed that the directorate had an approved staff establishment of twenty-eight (28) employees whereas the actual number in position was six (6), resulting to an under staffing by twenty-two (22) officers. Further, some of the staff were still pursuing their accountancy certification to attain the qualifications for the scheme of service for accountants.

In the circumstances, effectiveness of Internal Audit Department function could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, risk Management and overall governance were operating effectively in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

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

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

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

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

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

Auditor-General's Responsibilities for the Audit


My responsibility is to conduct an audit of the financial statements in accordance with Article 229(4) of the Constitution, Section 35 of the Public Audit Act, 2015 and the International Standards for Supreme Audit Institutions (ISSAIs). The standards require that, in conducting the audit, I obtain reasonable assurance about whether the financial statements as a whole are free from material misstatements, whether due to fraud or error and to issue an auditor's report that includes my opinion in accordance with Section 48

of the Public Audit Act, 2015. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

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

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

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


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

19 December, 2024