

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF BOMET FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of County Assembly of Bomet set out on pages 1 to 32, which comprise the statement of financial assets and liabilities as at 30 June, 2019, and the statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts - recurrent and development combined 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, the financial statements present fairly, in all material respects, the financial position of the County Assembly of Bomet as at 30 June, 2019, 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 Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Bomet in accordance with ISSAI 130 on 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 opinion.

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 in the year under review.

Other Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts - development and recurrent combined reflects approved receipts and expenditure budget of Kshs.803,549,398. However, the Assembly received an amount of Kshs.657,433,000 while actual expenditure amounted to Kshs.657,933,558 resulting to budget under-performance by 18%.

The shortfall in receipts mainly occurred due to exchequer releases where an amount of Kshs.146,116,398 was not released. The under absorption mainly occurred under Transfers to Other Government Entities and Acquisition of Assets of Kshs.12,351,090 and Kshs.133,036,060 respectively totalling to Kshs.145,387,150.

The under absorption could have negatively impacted on delivery of goods and service to the citizens of Bomet by the County Assembly. Consequently, there is need for the County Assembly to evaluate its budget making mechanism with a view of allocating resources to priority areas for higher budget utilization and impact.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

1. Surrender to County Revenue Fund

The comparative figure of unspent cash held at the Central Bank of Kenya as at 30 June, 2018 as reported in the statement of financial assets and liabilities reflects a balance of Kshs.738,685. However, examination of available County Assembly's records indicate that only an amount of Kshs.283,173 was surrendered to the County Revenue Fund (CRF) leaving a balance of Kshs.455,512 not returned. This is contrary to Section 136 of the Public Financial Management Act, 2012 which requires, a County Government entity holding appropriated money that was withdrawn from the County Exchequer Account but has not been spent, to repay the unspent money to the County Exchequer Account and prepare a refund statement which shall be forwarded to the Controller of Budget at the end of a financial year.

The County Assembly is in breach of the Law.

2. Acquisition of Assets

As disclosed under Note 10 to the financial statements, the statement of receipts and payments reflects payments on acquisition of assets of Kshs.51,723,280. From the review of the expenditure, the County Assembly was in breach of law in the following instances: -

2.1. Non-Deduction of Contract Retention Money

Included in this amount are payments for the construction of buildings amounting to Kshs.31,172,845 out of which an amount Kshs.25,504,154 was paid to three (3) contractors without withholding the applicable retention amount at the rate of 10% amounting to Kshs.2,550,415.40. This amount was to compensate the client against any loss resulting from poor workmanship during the defect liability period as stipulated for in the contract documents.

2.2. Delayed Completion of Mini Chamber Boundary Wall

Further, the payments on acquisition of assets of Kshs.51,723,280 includes Kshs.5,560,093 paid in respect of construction of buildings for the construction of a boundary wall at a contract price of Kshs.31,955,378 which was signed on 18 October, 2016. No specific commencement and completion dates were disclosed making it open ended. A perusal of the project file revealed that on 18 March, 2019, the Clerk to the Assembly wrote a termination letter to the contractor to terminate the contract due to unsatisfactory progress in the execution of works. On 25 March, 2019, the contractor responded to the termination letter for the contract stating the reasons for the delayed completion; as mobilization challenges, delayed payments, and lack of coordinated approval of work progress by the project management team based in Nairobi. Subsequently, on 5 April, 2019, the contractor requested for an extension of time of one hundred and twenty (120) working days with effect from the date of the letter. Upon receipt, the Evaluation Committee and with the approval of the Clerk of the County Assembly on 10 April, 2019 granted an extension of sixty (60) days.

Audit inspection carried out on the boundary wall in September, 2019 revealed that the wall was incomplete with some sections having pillars while others were at slab level. There were also no on-going works and the contractor was not on site.

In the circumstance therefore, the construction of the boundary wall is behind schedule and the likelihood of cost escalation is high. In addition, the benefits envisaged from its construction have not been realized.

2.3. Delayed Completion of Construction of Mini Chamber

Also included in the payment is Kshs.14,777,153 for construction of a mini chamber during the year. The contract for the construction works was awarded on 28 September, 2016 at a contract price of Kshs.65,693,531 and the contract agreement signed on 19 October, 2016. Review of the project revealed that the contract commencement and completion dates have not been expressly stated in the contract, consequently, it was not possible to determine the contract duration.

Further, information available indicated that the site was handed over to the contractor on 17 November, 2017 more than one year later after the contract was signed. At the time of the audit visit at the site, on 17 September, 2019 no works was on-going and the contractor was not on site.

In the circumstances, the cost of constructing the mini chamber is likely to escalate with the continued delays and the benefits envisaged from its construction may not be realized.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities

that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

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, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and 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 control 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 control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Assembly's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the going concern basis of accounting unless Management is aware of the intention to dissolve the Assembly or 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 are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how the assembly monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes

Report of the Auditor-General on County Assembly of Bomet for the year ended 30 June, 2019

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

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. 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 and weakness 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 addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, 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 accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and review of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Assembly's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Assembly to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Assembly to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



Nancy Gathungu
AUDITOR-GENERAL

Nairobi
04 November, 2020

Report of the Auditor-General on County Assembly of Bomet for the year ended 30 June, 2019