

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

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of County Assembly of Embu set out on pages 13 to 25, 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 statements 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 effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, the financial position of the County Assembly of Embu 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 and the County Government Act, 2012.

### **Basis for Qualified Opinion**

#### **1. Presentation of the Financial Statements**

The County Assembly's financial statements for the year ended 30 June, 2019 did not include budget execution by programmes and sub-programmes as prescribed by the Public Sector Accounting Standards Board (PSASB). Further, no explanation was given in the financial statements for under expenditure for both recurrent and development items as required by the Board. In addition, the Board requires bank reconciliations to be annexed to the financial statements. However, this information was not annexed to the financial statements for the year under review.

In the circumstances, the presentation of the financial statements for the year ended 30 June, 2019 did not conform to the prescribed format by the Public Sector Accounting Standards Board.

#### **2. Cash Management**

The statement of financial position reflects an amount of Kshs.10,503,393 as at 30 June, 2019 in respect to cash and cash equivalents balance. However, a review of the cashbooks, bank statements and certificates of balances revealed that the cashbook in respect to the Central Bank of Kenya (CBK) – Recurrent Account had been overdrawn by Kshs.47,350.35 arising from one hundred twenty-five (125) unrepresented cheques totalling to Kshs.22,399,949.25 issued in June, 2019 when the bank account balance was Kshs.22,352,598.90 as at 30 June, 2019.

Further, the Assembly's Cooperative Bank account had an overdraft of Kshs.36,528 as at 30 June, 2019. However, the authority to overdraw the account in line with Section 119(4) of the Public Finance Management Act, 2012 which stipulates that an Accounting Officer for a County Government entity shall not cause a bank account of the entity to be overdrawn beyond the limit authorized by the County Treasury or a Board of a County Government entity was not availed.

In the circumstances, the validity and accuracy of the Kshs.10,503,393 bank balance as at 30 June, 2019 could not be ascertained.

### 3. Irregularly Paid Legal Fees

The statement of receipts and payments reflects an expenditure of Kshs.295,433,452 under use of goods and services. The balance includes Kshs.76,201,265 in respect of other operating expenses out of which an amount of Kshs.5,900,000 was paid to a law firm for rendering various legal services to the County Assembly as follows;

<b>Pv No</b>	<b>Date</b>	<b>Case Ref</b>	<b>Amount Kshs.</b>
CAE/JUNE19/031	07.06.2019	16/2018	2,500,000
CAE/April 19/194	17.04.2019	11/2018	3,400,000
<b>Total</b>			<b>5,900,000</b>

The fee notes submitted for audit review reflected one consolidated figure without details of specific service(s) provided and paid for contrary to the provisions of the Advocates (Remuneration) (Amendment) Order, 2014 which provides detailed guidelines on how the legal fees should be charged.

Further, the two cases had not been concluded at the close of audit in August, 2019 but the full payment of Kshs.5,900,000 had been made contrary to Clause 4 of the Frame Work Agreement dated 14 August, 2018 which states that in consideration of the services rendered by the advocate under this agreement, the procuring entity shall pay to the advocate at the conclusion of each case, the legal fees mutually agreed upon by parties.

In the circumstances, the validity of the Kshs.5,900,000 expenditure for the year ended 30 June, 2019 could not be ascertained.

### 4. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 3 to the financial statements, the statement of receipts and expenditure for the year ended 30 June, 2019 reflects Kshs.295,433,452 in respect to use of goods and services. A review of the expenditure revealed unsatisfactory matters as outlined below:

#### 4.1 Unsupported Domestic Travel and Subsistence

An amount of Kshs.135,781,594 in respect of domestic travel and subsistence includes an amount of Kshs.4,843,800 which was paid without supporting documents such as attendance schedules, invitation letters, work/bus tickets and/or back to office reports. It has not been possible to ascertain whether the expenditure of Kshs.4,843,800 was a proper charge to public funds.

#### **4.2 Avoidable Expenditure on Hospitalities, Supplies and Services**

Further, out of a balance of Kshs.14,356,929 in respect of hospitalities, payment for supplies and services amounting to Kshs.2,308,000 was made for hire of conference facilities for meetings held outside Embu County. However, there was no justification why the meetings were held outside the County and could therefore have been avoided. It has therefore, not been possible to confirm that the expenditure of Kshs.2,308,000 was a proper charge to public resources.

#### **4.3 Irregular Contributions to the County Assembly Forum (CAF)**

The above balance of Kshs.295,433,452 constitutes an amount of Kshs.76,201,265 in respect to other operating expenses out of which an amount of Kshs.2,300,000 was spent in the payment of annual subscriptions to the County Assemblies Forum (CAF). However, no documentary evidence was provided for audit review to support the expenditure, the specific activities being funded and the basis for such payments. It was therefore, not possible to ascertain the propriety and value for money of the Kshs.2,300,000 expenditure on County Assemblies Forum for the year ended 30 June, 2019.

#### **4.4 Unsupported Expenditure for Motor Vehicles Maintenance**

The amount of Kshs.295,433,452 also includes Kshs.3,206,272 in respect of routine maintenance - vehicles and other transport equipment which further includes Kshs.700,000 paid for repairs of a motor vehicle. According to the regional mechanical engineer's inspection report dated 8 June, 2018, the repairs were carried out by a firm that had been issued with four (4) Local Service Orders (LSOs). However, the LSOs were not availed for audit review.

In the circumstances, the regularity and accountability of the amount of Kshs.295,433,452 spent under use of goods and services during the year could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Embu Management 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 qualified 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. I have determined that there are no key audit matters to communicate in my report.

## Other Matter

### 1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined for year ended 30 June, 2019 reflects an approved budget receipts of Kshs.664,744,226 and actual receipts of Kshs.558,042,527 resulting in receipts under realization of Kshs.106,701,699 which could have affected the realization of the County Assembly's planned activities for the year.

Similarly, the statement reflects approved budgeted expenditure of Kshs.592,744,226 while the actual expenditure amounted to Kshs.556,036,802 resulting to net under-absorption of Kshs.108,707,424 as shown below:

Items	Budget (Kshs.)	Actual (Kshs.)	Under (Kshs.)	%
Compensation of Employees	222,882,426	222,822,402	60,024	0
Use of Goods and Services	297,923,048	295,433,452	2,489,596	1
Social Security Benefits	31,875,328	31,870,928	4,400	0
Acquisition of Assets	16,063,424	5,910,020	10,153,404	63
Other Payments	96,000,000	-	96,000,000	100
<b>TOTAL</b>	<b>664,744,226</b>	<b>556,036,802</b>	<b>108,707,424</b>	

The under absorption of Kshs.108,707,424 could have impacted negatively on delivery of goods and services to the residents of Embu County during the year under review. The Management needs to re-look the budgetary process with a view to developing a realistic budget.

### 2.0 Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, although the Management has indicated that 11 out the 17 issues have been resolved, no documentary evidence has been availed for verification to show how and when the issues were resolved while the remaining six (6) issues remain unresolved.

In view of above, the accuracy and completeness of the information contained in the financial statements for the year under review could not be ascertained.

## 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 Qualified Opinion and basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections 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. Procurement of Insurance Services**

As disclosed in Note 3 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2019 reflects an amount of Kshs.295,433,452 under use of goods and services which includes a balance of Kshs.15,974,756 in respect of insurance costs. Out of this, an amount of Kshs.14,072,612 was paid to the National Hospital Insurance Fund (NHIF) for provision of medical insurance cover for members and staff of the Assembly.

However, the contractual agreement between the County Assembly and NHIF commenced on 2 October, 2018. The County Assembly and NHIF signed the contract on 26 April, 2019 and 15 July, 2019 respectively. NHIF was therefore in engagement with the County Assembly for about 9 months without any contractual agreement.

Further, the proposal by NHIF presented to the Assembly was not subjected to competition with other bidders before being considered for the award contrary to Section 126(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Evaluation Committee of a procuring entity shall examine the proposal received in accordance with the request for proposals.

In the circumstance, the Management is in breach of the law.

### **2. Non-Disclosure of Land and Buildings in the Financial Statements**

The summary of fixed asset register at Annex 2 to the financial statements for the year under review reflects assets balance of Kshs.46,391,356 as at 30 June, 2019. However, despite the County Assembly being in possession of the land and buildings where it is currently housed, no valuation has been carried out to determine their value and therefore Annex 2 to the financial statements reflects nil balance under land, building and structures as at 30 June, 2019. Further, no assets handing over report including ownership documents from the defunct County Council of Embu to the County Assembly was made available for audit review.

Consequently, the validity, accuracy and completeness of the balance of Kshs.46,391,356 reflected as the value of the County Assembly's assets and the ownership status as at 30 June, 2019 could not be confirmed.

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, except for the matters described in the Conclusion on Effectiveness of Internal Controls section of my report, I confirm that, nothing has come to my attention to cause me to believe that internal controls were not operating in an effective way.

### **Basis for Conclusion**

#### **1.0 Audit Committee**

The County Assembly had not established an Audit Committee as at 30 June, 2019, as required by Section 42(1)(e) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that an Accounting Officer shall ensure each County Government entity has an Audit Committee in place.

In the circumstance, the County Assembly contravened the law. Also, it was not possible to confirm that the Assembly had established an effective internal control mechanism in absence of such an oversight committee.

#### **2.0 Information, Communication and Technology (ICT) Environment**

Review of the County Assembly's ICT environment revealed that there was no formal approved ICT policy in place as at 30 June, 2019 which includes data security policy and disaster recovery plans. The ICT organization structure was not provided for review.

Further, the County Assembly did not have an IT Steering Committee or Strategic Committee for ensuring effective IT controls and strategies.

In the circumstance, the security and reliability of the County Assembly's data including its Management Information System could not be ascertained.

#### **3.0 Lack of Risk Management Policy for Internal Audit and Reports**

The County Assembly's Internal Audit section did not have a Risk Management Policy contrary to Section 153(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that internal auditors shall have a duty to give reasonable assurance through the Audit Committee on the state of risk management, control and overall governance within the organization.

In the circumstances, it was not possible to ascertain how risks were identified, controlled, monitored and mitigated during the year under review.

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 County Assembly's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to liquidate the County 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 entity 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**

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 audit of compliance, I consider internal control 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 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 County Assembly's 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 County 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 County 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 County 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**

**06 November, 2020**