

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF BUNGOMA FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Bungoma set out on pages 13 to 58, which comprise the statement of financial assets and liabilities as at 30 June 2018, and the statement of receipts and payments, statement of changes in equity, statement of cash flows and 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 effect of the matters 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 Assembly of Bungoma as at 30 June 2018, 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 Financial Management Act, 2012.

Basis for Qualified Opinion

1. Lack of Fixed Assets Register

Annexure 3 of the summary of fixed assets register reflects assets totalling Kshs.428,364,291 as at 30 June 2018. However, available records indicate that the County Assembly did not maintain an updated assets register and it was not possible to ascertain the nature, number, physical location and fair value of the Assembly's assets contrary to Regulation 136(1) of the Public Financial Management Regulations, 2015 which requires that the accounting officer shall be responsible for maintaining an assets register.

In the circumstances, it was not possible to ascertain accuracy and completeness of the total assets balance of Kshs.428,364,291 as at 30 June 2018.

2. Use of Goods and Services

2.1. Over payments of Subsistence Allowance in Foreign Travel

The use of goods and services figure of Kshs.399,575,051 includes foreign travel and subsistence expenditure of Kshs.7,469,252 as disclosed under note 4 to the financial statements, out of which an amount of Kshs.5,355,500 was incurred in respect of elected women leadership training workshop in Kigali, Rwanda. However, it was noted the participants who travelled out of the country for official assignments were paid daily subsistence allowance for double the duration which was originally envisaged in the trip as analyzed below;

Payee	Description	Days of Workshop	Days paid	Amount payable Kshs.	Amount Paid Kshs.	Extra Amount Paid Kshs.
County Assembly of Bungoma	Elected Women Leadership Training Workshop in Kigali, Rwanda	5	10	2,677,750	5,355,500	2,677,750

In the circumstances, it was not possible to ascertain probity of the total expenditure of Kshs.399,575,051 incurred on the use of goods and services during the year.

3.0 Bank Balances

Note 10 to the financial statements reflects a bank balance of Kshs.2,450,891 as at June 30 2018. However, the certificate of bank balances for the three bank accounts were not availed for verification. In addition, the bank reconciliation statement for the imprest account at Kenya Commercial Bank was provided for review.

Consequently, the accuracy of the cash and bank balance as at 30 June 2018 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 Bungoma in accordance with ISSAI 30 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.

Emphasis of Matter

Pending Bills

The Assembly has outstanding pending bills of Kshs.57,022,882 comprising pending accounts payable of Kshs.51,811,322 and pending staff payables of Kshs.5,211,560 as at 30 June 2018 as disclosed in annexure 1 and 2 to the financial statements respectively. However, no explanation was given for failure to settle these debts, considering that the Assembly realized 97% of the budgeted exchequer releases during the year under review. Further, it is not clear how the Assembly intends to clear the pending bills without affecting the subsequent year's budget.

In the circumstances, the propriety of the pending accounts payable of Kshs.57,022,882 could not be confirmed.

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. Except for the matters described in the Basis for Qualified Opinion section, I have determined that there are no key audit matters to communicate in my report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for conclusion

1. Acquisition of Assets

1.1 Delayed Construction of Office Block

The acquisition of assets figure of Kshs.106,706,522 includes an amount of Kshs.77,799,114 paid in respect of construction of a modern office block as analysed in note 7 to the financial statement. The contract was awarded to a local contractor at a contract sum of Kshs.447,768,217 and was to be carried out in eighteen (18) months with expected completion date of May 2018.

However, physical verification of the project, three months after the contracted completion timeline revealed that construction was still on going and the building had reached fourth floor with columns erected.

Though the management explained that the contract period had been extended by a year from 14 May 2018 to 14 May 2019 on 21 September 2018, the extension of the contract period was not done in line with the provisions of Section 139(2) of the Public Procurement and Assets Disposals Act, 2015 which requires an accounting officer of a procuring entity, on the recommendation of an evaluation committee, to approve the request for the extension of contract period accompanied by a certificate from the tenderer.

1.2 Delayed Utilization and Adoption of Intranet System

The acquisition of assets figure of Kshs.106,706,522 includes an amount of Kshs.4,150,000.00 paid to a local ICT dealer in respect of purchase of ICT equipment, software and other ICT assets.

Further, a local consultant firm was awarded a contract of Kshs.11,150,000 to develop an intranet system and deploy a functional ERP at the County Assembly which would perform services including;

- (i) Visitor Management
- (ii) Biometric Attendance Register
- (iii) Human Resource Management
- (iv) Financial Management
- (v) Inventory and Asset Management
- (vi) Internal Messaging
- (vii) Project Management

The form of agreement provided that the contract period was to last for 12 months effective April 2016 to April 2017. 90% of the contract sum would be payable on completion, training, handing over and 10% retention for 90 days trouble free.

However, it was noted at the time of audit in October 2018 that the consultant had been fully paid the total contract sum of Kshs.11,150,000 before the issuance of completion certificate by the receipt and acceptance committee. The defect liability certificate had also not been released to the contractor after 12 months. In addition, all the applications had not been integrated into the intranet and the modules had not been rolled out and fully adopted by the Assembly.

Consequently, the Assembly failed to achieve value-for-money in the deployment of the intranet system.

2. Use of Goods and Services

2.1. Irregular Payment of Bulk Imprests for Hospitality Supplies and Services

The use of goods and services figure of Kshs.399,575,051 includes Kshs.231,126,847 in respect of hospitality supplies and services. However, review of the payment records revealed that an amount of Kshs.180,874,306 was paid to staff of the Assembly on behalf of the Members of the County Assembly (MCAs) to cater for travelling and accommodation expenses contrary to Regulation 91(2) of the Public Financial Management (County Regulations), 2015 which states 'that the officer authorized to hold and operate imprest shall make a formal application for imprest through an imprest warrant.

Further, it was noted that there was no clear security arrangement while carrying such large amounts of cash to avoid possible loss of funds as stipulated in Regulation 89 of the same regulations on security of cash in transit.

Consequently, the County Assembly was therefore in breach of the law.

2.2 Irregular Extension of Insurance Services

Included in the use of goods and services figure of Kshs.399,575,051 is insurance costs of Kshs.32,849,029 as disclosed under note 4 to the financial statements, out of which an amount of Kshs.9,760,441 was incurred in respect of general insurance services.

However, scrutiny of the respective records revealed that the Assembly entered into a contract with a local principal insurance firm and a broker 7 March 2016 for the provision of general insurance cover. The annual contract sum payable was Kshs.9,769,441 This contract allowed a one year extension on successful performance.

On 4 April 2017, the insurance policy was renewed for the one year period initially provided for in the contract for a total sum of Kshs.9,760,441 to cater for general insurance for the financial period of 2017/2018.

On 19 March 2018, the Assembly once again renewed the insurance contract at an annual premium of Kshs.9,760,441 without inviting fresh bids in identifying the provider since the prior contract had lapsed and was not due for renewal.

In the circumstances, the contract was awarded through direct procurement method without meeting the conditions set out in Section 103 of the Public Procurement and Assets Disposals Act, 2015 and in total disregard of the procedures outlined in Section 104 of the same Act.

2.3 Ineffective Foreign Travel Expenditure

The use of goods and services balance of Kshs.399,575,051 includes foreign travel and subsistence of Kshs.7,469,252 as disclosed under note 4 to the financial statements. However, the schedule of activities that were to be carried out during the trips and feedback reports of the studies and conferences were not provided for audit review. Consequently, it was not possible to ascertain whether value for money was achieved in the expenditure of Kshs.7,469,252.

My responsibility is to express a conclusion based on the review. The review was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the review so as to obtain limited assurance as to 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 procedures performed, except for the matter described in the Report On Effectiveness Of Internal Controls, Risk Management And Governance section of my report, 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

Lack of Land Ownership Documents

The acquisition of assets figure of Kshs.106,706,522 includes an amount of Kshs.6,000,000 paid in respect of acquisition of land a local company. However, as at the time of audit, the transfer process had not been finalized and the Assembly was not in possession of the title deed for the parcel of land.

Under the circumstances, the ownership of the land could not be confirmed.

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. 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 for the Financial Statements

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 such 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.

In preparing the financial statements, management is responsible for assessing the Assembly's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intends to liquidate the Assembly's or to cease operations, or have no realistic alternative but to do so.

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 money is applied in an effective manner.

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 of the Financial Statements

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 review is planned and performed to express a conclusion with limited assurance as to 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 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

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 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 judgment 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.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for the purpose of giving an assurance on the effectiveness of the Assembly's 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.



FCPA Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

22 January 2019