

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

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of County Assembly of Embu set out on pages 10 to 26, which comprise the statement of assets and liabilities as at 30 June 2021, and the statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts: recurrent, development and 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, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, the financial position of the County Assembly of Embu 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 do not comply with the Public Finance Management Act, 2012 and County Government Act, 2012.

Basis for Adverse Opinion

1.0 Presentation of the Financial Statements

The County Assembly's financial statements for the year ended 30 June 2018 did not include budget execution by programmes and sub-programmes as required by International Public Sector Accounting Standards (IPSAS) – Cash Basis and as prescribed by the Public Sector Accounting Standards Board (PSASB). The presentation is therefore not in accordance with the recommended framework.

2.0 Inaccurate Statement of Assets and Liabilities

2.1 Cash and Cash Balances

The statement of financial assets and liabilities as at 30 June 2018 reflected a cash and cash equivalent balances of Kshs.13,727. However, the corresponding note 13A reflected a balance of Kshs.13,727 in the Central Bank of Kenya and Kshs.19,092,365 held in other banks both totaling Kshs.19,106,092 resulting into an unexplained or unreconciled variance of Kshs.19,092,365.

2.2 Prior Year Adjustments

Further, the statement of assets and liabilities reflected prior year adjustments of Kshs.22,180,218 that appears as a balancing figure in the financial statements as the respective supporting documents were not made available for audit review.

In the circumstances, the accuracy of these balances reflected in the statement of financial assets and liabilities as at 30 June 2018 could not be ascertained.

2.3 Unsupported Bank Accounts

Information available indicates that the County Assembly operated seven (7) bank accounts out of which the following four (4) bank accounts cash books, bank reconciliation statements and bank confirmation certificates were not made available for verification:

	Bank Name	Account Number	Account Name	Purpose	Amount as per F/S (Kshs.)
1	Central Bank of Kenya	1000250371	Deposit	Deposit	Nil
2	Co-operative Bank	01141408365000	Recurrent	Recurrent	(24,728)
3	Family Bank	75000028013	Mortgage and Car Loan Scheme	Corporate	5,295,895
4	Family Bank	75000032988	Mortgage and Car Loan Scheme	Corporate	Nil
	TOTAL				5,271,167

In the circumstances, it was not possible to ascertain that these financial statements for the year ended 30 June 2018 were fairly stated.

2.4 Embu County Assembly Recurrent Account-Central Bank Account Number 1000195328

Note 13A to the financial statements reflected a balance of Kshs.13,727 held in the Central Bank of Kenya (CBK) and Kshs.19,092,365 held in other banks totaling Kshs.19,106,092. The Kshs.13,727 Central Bank balance was held in bank account number 1000195328. However, the respective reconciliation statement and bank confirmation certificate reflected a bank balance of Kshs.228,951 in respect to the same account resulting to unreconciled difference of Kshs.215,224.

In the circumstances, the accuracy of the Kshs.13,727 held in the CBK as at 30 June 2018 could not be ascertained.

3.0 Accuracy of the Statement of Cash Flows

The statement of cash flows reflects cash and cash equivalents at the end of the year under review of Kshs.13,727. However, included in the statement is an item referred to as adjustments during the year of Kshs.22,180,218 which was not supported by documentary evidence.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.13,727 reflected in the statement of cash flows for the year ended 30 June 2018 could not be ascertained.

4.0 Non-disclosure of Land and Buildings in the Financial Statements

The summary of fixed asset register at Annex 2 of the annexes to the financial statements for the year under review reflected assets balance of Kshs.40,481,336 as at 30 June 2018. However, 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 Kshs.40,481,336 reflected as the value of the County Assembly's assets as at 30 June 2018 could not be confirmed.

5.0 Disclosure of Pending Bills

Annex 1 to the financial statements for year under review showed that the pending bills reduced by Kshs.27,061,355 from Kshs.29,884,010 as at 30 June 2017 to Kshs.2,822,655 as at 30 June 2018. However, the Annex did not show when each bill was contracted, amount paid during the year and the outstanding amount as at 30 June 2018. Further, no documents were made available in support of the Kshs.27,061,355 pending bills movement during the year and the Kshs.2,822,655 outstanding bills as at 30 June 2018.

In the circumstances, the accuracy, validity and existence of Kshs.2,822,655 pending bills reported in the financial statements as at 30 June 2018 could not be ascertained.

6.0 Accuracy of Receipts

Note VII (i) to the financial statements showed that included in Kshs.485,937,461 total receipts for the year were exchequer releases in transit of Kshs.26,308,730 which had not been received by 30 June 2018. It was not clear why the County Assembly included the receipts in transit as part of its actual receipts considering that the financial statements were prepared under International Public Sector Accounting Standards (Cash) format.

Further, the statement of comparison of budget and actual amounts and the statement of receipts and payments reflected exchequer releases of Kshs.485,923,734 and Kshs.485,937,461 respectively resulting into an unexplained and unreconciled variance of Kshs.13,727.

In the circumstances, the accuracy of the total receipts of Kshs.485,937,461 could not be ascertained.

7.0 Social Security Benefits

The statement of receipts and payments for the year ended 30 June 2018 reflected social security benefits of Kshs.26,698,607 paid as Government pension and retirement

benefits through bank account No. 075000034870 at Family bank. Included in the Kshs.26,698,607 is Kshs.13,793,559.05 from the County Assembly of Embu's CBK Account number 1000195328 which further includes an unsupported amount of Kshs.5,449,004 comprising of Kshs.1,256,899 which did not have supporting evidence and Kshs.4,192,105 which could not be traced in the general ledger as shown below;

Cheque No.	Account Details	Description	Remarks	Date	Amount (Kshs.)
40004756	Salary Control Account	County Assembly of Embu-Gratuity	Not in the ledger	27-Feb-18	1,779,321.90
40004620	Salary Control Account	County Assembly of Embu-Gratuity	Not in the ledger	01-Feb-18	1,282,277.50
40004222	Salary Control Account	County Assembly of Embu-Gratuity	One of the two portions that make up the total	13-Dec-17	308,961.00
40003892	Salary Control Account	County Assembly of Embu-Gratuity	Not in the ledger	03-Oct-17	821,545.00
Grand Total					4,192,105.40

In the circumstances, the accuracy and validity of the Kshs.26,698,607 social security benefits figure reflected in the statement of receipts and payments for the year ended 30 June 2018 could not be confirmed.

8.0 Unsupported Other Operating Expenses

Note 5 to the financial statements for the year under review reflects Kshs.240,742,441 being use of goods and services which includes other operating expenses of Kshs.63,056,390 which further include Kshs.5,500,000 paid to two organizations as membership fees as shown below:

Cheque	Payee	Payment Date	Amount (Kshs.)
40003837	County Assemblies Forum	3-Oct-17	2,000,000
40003838	County Assemblies Forum	23-Mar-18	2,900,000
40004850	Society of Clerks at the Table	14-Mar-18	300,000
40004046	Society of Clerks at the Table	31-Oct-17	300,000
TOTAL			5,500,000

However, justification for making this payment and the governing legislation were not availed for audit review.

In the circumstances, it was not possible to ascertain that the Kshs.5,500,000 expenditure reflected in the statement of receipts and payments for the year ended 30 June 2018 as membership fees was a proper charge to the Public Funds.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Embu 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 adverse 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. Except for the matters described in the Basis for Adverse Opinion section, I have determined that there are no other key audit matters to communicate in my report.

Other Matter

1. Budgetary Control and Performance

The County Assembly had budgeted revenue totaling Kshs.510,937,461 but realized Kshs.485,923,734 during the year ended 30 June 2018 resulting in a revenue under-realization of Kshs.25,013,727 as shown below:

Summarized Receipts Analysis				
Receipt/Expense Item	Budget (Kshs)	Actual (Kshs)	Over/Under (-) (Kshs)	% Over/Under (-)
Transfers from the County Treasury/Exchequer Releases	485,937,461	485,923,734	-13,727	0%
Proceeds from Sale of Assets	0	0	0	
Other Receipts	25,000,000	0	25,000,000	-100%
TOTAL	510,937,461	485,923,734	-25,013,727	-5%

In overall, the County Assembly under-realized the budget to the tune of Kshs.25,013,727 which may be an indication of improper planning on its budget making process.

In addition, the County Assembly had a total expenditure budget of Kshs.485,937,461 voted for the financial year ended 30 June 2018 while the actual expenditure amounted to Kshs.485,923,735 resulting to net under-absorption of Kshs.13,726 as summarized below:

Summarized Expenditure Analysis				
Receipt/Expense Item	Budget (Kshs)	Actual (Kshs)	Over/Under (-) (Kshs)	% Over/Under (-)
Compensation of Employees	200,714,211	200,700,487	-13,724	0%
Use of Goods and Services	240,742,442	240,742,441	-1	0%

Summarized Expenditure Analysis				
Receipt/Expense Item	Budget (Kshs)	Actual (Kshs)	Over/Under (-) (Kshs)	% Over/Under (-)
Subsidies	0	0	0	
Transfers to Other Government Entities	0	0	0	
Other Grants and Transfers	0	0	0	
Social Security Benefits	26,698,608	26,698,607	-1	0%
Acquisition of Assets	17,782,200	17,782,200	0	0%
Finance Costs	0	0	0	
Other Payments	0	0	0	
TOTAL	485,937,461	485,923,735	-13,726	0%

In overall, the County Assembly budgeted and actual expenditure compared favorably for the year ended 30 June 2018.

Further, the statement of receipts and payments for the year reflected exchequer releases of Kshs.485,937,461 against budgeted receipts of Kshs.510,937,461 resulting to an unreleased exchequer of Kshs.25,000,000 as at 30 June, 2018.

In the circumstance, the County Assembly did not achieve its planned activities for the year.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, based on the audit procedures performed, I confirm that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Appointment of Staff to the County Assembly

The statement of receipts and payments for the year under review reflects payments totaling Kshs.485,923,734 which include Kshs.200,700,487 being compensation for employees which further include Kshs.8,288,338 paid to thirty-three (33) personal assistants to Members of County Assembly (MCAs) recruited within the year under audit .

However, no documents were made available to show that the recruitment was subjected to advertisement and evaluation as required by Section 95 and 96 of the

Public Procurement and Asset Disposal Act, 2015 including fair competition as required by Section 232 (I) of the Constitution of Kenya 2010.

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

2. Construction of County Assembly Complex

As reported in the previous year, the County Assembly entered into an agreement for construction of an office complex and specialized works under tender number CAE/001/BDG/2014- 2016 on 30 March 2015 with M/S Landor & Associates at a contract sum of Kshs.325,856,107 to be funded using long term finance as per the advice of Commission on Revenue Allocation (CRA).

However, on 11 August 2015, the High Court in Embu granted conservatory orders that restrained funding and paying out of funds to any person or authority for the construction works and on 14 August 2015, the contractor was instructed to stop construction until further notice.

The contractor issued two (2) invoices for work completed dated 25 and 27 April 2016 for amount of Kshs.10,861,943.76 and Kshs.18,485,013.97 respectively, all totaling Kshs.29,346,958 which had not been paid as at the time of this audit in October 2018. However, the amount was not disclosed in the financial statements as part of the pending bills as at 30 June 2018 and no documents were made available to show whether the Assembly had contested the Kshs.29,346,958 claim.

In the circumstances, the County Assembly may face huge penalties and interest on the outstanding Kshs.29,346,958 as at 30 June 2018 of which might not have value addition to the citizens of Embu County.

3. Dormant Bank Account

The County Assembly's bank account number 01141408365000 at Co-operative Bank had an opening debit balance of Kshs.11,087.92 on 1 July, 2017 and a debit closing balance of Kshs.24,728.07 on 30 June 2018 resulting to bank transactions totaling Kshs.13,640.15. However, the bank statement showed no transactions in this account for the whole year except the Kshs.13,640.15 bank charges and interest. No explanation was given as to why the account was still being maintained as at 30 June 2018. Further, the authority to open the current account as required by the Public Finance Management Act, 2012 was not availed for audit.

In the circumstances, the County Assembly was in breach of law and the Kshs.13,640.15 bank charges and interest as at 30 June 2018 was an avoidable expenditure.

4. County Assembly Mortgage and Car Loan Scheme

The County Assembly operated a bank call deposit account number 075000032988 at Embu Family Bank for the mortgage and car loan scheme. As at 30 June 2015, Kshs.165,000,000 had been transferred from the recurrent account number 1000195328 to the call deposit account which was held in a fixed deposit account. Although the call deposit account's bank certificate and bank statement for the financial year 2017/2018 indicated that the account was closed on 11 January 2018, no records were made available to show the amount of interest earned from the fixed deposit during the years of its operation between the financial year 2013/2014 up to 11 January 2018 and how it was accounted for in the financial statements as at 30 June 2018.

In addition, the County Assembly did not submit for audit the financial statements for County Assembly Mortgage and Car Loan Scheme as required by Section 116 (7) of the Public Finance Management Act 2012, Section 47 of the Public Audit Act 2015 and Section 15 (1) (d) and 19 (1) (d) of the Car and Mortgage Scheme Fund respectively.

In the circumstances, the Assembly was in breach of the law and the status of the call deposit account number 075000032988 on 11 January 2018 when it was closed and how the principal and interest amounts was subsequently accounted for could not be confirmed as at 30 June 2018.

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, because of the significance of the matters discussed in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, based on the audit procedures performed, I confirm that internal controls, risk management and governance were not effective.

Basis for Conclusion

1.0 Non-establishment of Audit Committee

The County Assembly did not have in place an audit committee contrary to Section 155 (5) of the public Finance Management Regulations, 2015. Further, the existing internal audit unit was not independent as it was part of finance department and lacked an internal audit charter. In addition, there was no risk assessment processes in place hence risks may not have been identified.

As a result, the County Assembly was in contravention of Section 155(5) of the Public Finance Management Regulations, 2015.

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 2018 which ought to have included data security policy and disaster recovery plans. Further, the ICT organization structure was not provided for audit review.

In the circumstances, the integrity, security and reliability of the County Assembly's financial data including its Management Information System could not be ascertained as at 30 June 2018.

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. The standard requires 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 governance .

In preparing the financial statements, management is responsible for assessing the County 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 intends to or to cease operations of the County Assembly, 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 resources are applied in an effective way.

Those charged with governance are responsible for overseeing the County Assembly's 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 policies and procedures may deteriorate.

As part of an audit 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 sustaining 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.



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

Nairobi

18 February 2019