

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

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Kwale set out on pages 1 to 25, which comprise of the statement of financial assets and liabilities as at 30 June, 2019, 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 the County Assembly of Kwale 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 County Governments Act, 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1.0 Unsupported Compensation of Employees

As disclosed under Note 4 to the financial statements, the statement of receipts and payments reflects compensation of employees of Kshs.240,511,732. The balance constitutes basic wages of temporary employees of Kshs.12,940,600 which includes an amount of Kshs.1,550,000 paid to Ward office staff as arrears of salary increment. However, the increase was not supported by any approval and any evidence that the amounts were finally paid to the beneficiaries.

Further, the basic salaries paid to permanent employees amounting to Kshs.103,967,438 differed with the Integrated Personnel and Payroll Database (IPPD) schedule of Kshs.104,012,768, resulting to an unexplained and unreconciled variance of Kshs.45,330.

In addition, compensation of employees includes personal allowances paid as part of salary of Kshs.99,241,413. However, payroll records availed for audit review, included an amount of Kshs.3,143,000 for telephone allowances paid to staff and members of County Assembly which is part of personnel emoluments. Management did not include this amount but instead wrongly disclosed it under telephone, telex, facsimile and mobile services expenditure. Included in the Kshs.3,143,000 on telephone allowances is Kshs.928,000 paid to the County Assembly of Kwale staff, contrary to the Circular Ref. No. SRC/TS/CGOVT/3/16 of 29 July, 2013 issued by the Salaries and Remuneration Commission of Kenya which does not provide for telephone allowances for County Assembly staff.

Due to the above issues, the accuracy, validity and completeness of compensation of employees of Kshs.240,511,732 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

2.0 Use of Goods and Services

As disclosed under Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services of Kshs.330,523,716. However, the following expenditures were not supported with the relevant details:

2.1 Irregular and Unaccounted for Expenditure

During the year under review, the Management expensed an amount of Kshs.162,226,648 through cash advances in respect of travel by staff and Members of County Assembly (MCAs). The amount constitutes Kshs.132,929,148 and Kshs.29,297,500 that was captured under domestic travel and subsistence allowances; and foreign travel and subsistence allowances respectively. Examination of records revealed that the amounts were issued as cash advances and immediately expensed off in the books before the activities were undertaken. No imprests was issued contrary to Regulation 93(3) of the Public Finance Management Regulations, 2012 which states that, 'Temporary imprest shall be issued mainly in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses' and Regulation 93(5) of the Public Finance Management Regulations, 2012 which states that, 'A holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station'.

2.2 Unsupported Expenditure

Further, the Management made payments amounting to Kshs.55,254,491 which was not supported with the relevant details as indicated below:

	Component	Amount (Kshs)	Missing Records
1	Domestic travel and subsistence allowances	7,182,000	Invitation letters, programs of work, return to office reports, evidence of attendance
2	Foreign travel and subsistence allowances	3,326,739	Invitation letters, programs of work, return to office reports evidence of attendance
3	Hospitality supplies and services	2,375,600	Details of persons who were provided with the services and information on the occasions that required provision of such services
4	Advertising and information supplies & services	13,523,161	Evidence of provision of bulk photocopying of documents

	Component	Amount (Kshs)	Missing Records
5	Training expenses	9,782,991	Needs assessment, evidence of staff attendance of courses
6	Other operating expenses	18,733,000	List of registered service providers for legal services.
7	Rentals of Produced Assets	331,000	Excess rent not recovered
	Total	55,254,491	

In the circumstances, the propriety, validity and completeness of expenditure amounting to Kshs.217,481,139 and included under use of goods and services for the year ended 30 June, 2019 could not be confirmed.

1.0 Unconfirmed Ownership of Land

As disclosed under Note 10 to the financial statements, the statement of receipts and payments reflects construction of buildings of Kshs.33,809,036 and domestic public non-financial enterprises of Kshs.51,243,053 all totaling Kshs.85,052,089. Included in this amount is Kshs.53,619,853 in respect of construction of ten (10) MCAs ward offices at a contract price of Kshs.68,243,743. However, Management did not provide documents confirming ownership of the land on which the offices are constructed or details on the ownership of the properties.

Under the circumstances, the ownership and obligations of the land could not be ascertained.

2.0 Accounts Receivables – Outstanding Imprests

As disclosed under Note 14 to the financial statements, the statement of financial assets and liabilities reflects accounts receivables–outstanding imprests of Kshs.4,455,821. The balance includes Kshs.4,119,392 in respect of tax notice – KRA where Management indicated that this was a direct debit from their CBK Recurrent Account by Kenya Revenue Authority (KRA), being interest and penalties. Although the Management indicated that the County Assembly of Kwale has been remitting its tax obligations on time and did not have any outstanding obligations, there was no evidence provided to confirm that KRA had accepted to refund the amount.

Consequently, the accuracy, completeness and recoverability of outstanding imprests of Kshs.4,455,821 in respect of accounts receivables-outstanding imprests as at 30 June, 2019 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 Kwale 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. There were no key audit matters to report in the year under review.

Other Matter

1.0 Budget Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.814,556,965 and Kshs.673,982,444 respectively resulting to an under-funding of Kshs.140,574,521 or 17% of the budget. Similarly, the statement reflects final payments budget and actual on comparable basis of Kshs.814,556,965 and Kshs.664,602,947 respectively resulting to an under expenditure of Kshs.149,952,928 or 18% of the budget.

The underfunding affected the planned activities and could have impacted negatively on service delivery to the resident of Kwale County.

2.0 Pending Bills

As disclosed under Note 5.10, other disclosures to the financial statements, the County Assembly had pending accounts payables totalling Kshs.144,744,822 as at 30 June, 2019. Management has not explained why the bills were not settled during the year to which they occurred. Failure to settle bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

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 matter 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

1.0 Non-Conformity with the Reporting Template

The annual report and financial statements prepared by Management and submitted for audit do not contain the follow up on audit recommendations. As a result, it has not been

possible to determine whether Management has taken any action on the previous audit observations. This is contrary to the format prescribed by the Public Sector Accounting Standards Board (PSASB) in accordance with section 194(1)(d) of the Public Finance Management Act, 2012 which mandates the PSASB to prescribe the formats for financial statements and reporting by all state organs and public entities.

Management is therefore in breach of the Law by not complying with the prescribed format.

2.0 Acquisition of Assets - Proposed Construction of the County Assembly Complex

Annex 4 to the financial statements reflects historical cost of buildings and structures of Kshs.606,148,957. Included in the balance is Kshs.387,176,621 in respect of construction of the County Assembly Complex project whose contract sum was Kshs.466,892,170. This contract sum was varied by Kshs.116,723,042 or 25% to Kshs.583,615,212 vide letter reference CAK/CL/PROC/001/2/6 of 29 March, 2018. However, interim certificate No. six (6) dated 11 May, 2018 for Kshs.50,964,401 indicated the total amount of work done as Kshs.402,106,969. The interim certificate did not indicate the itemized bills of quantities indicating actual measured works at that date. Available information indicates that the project was to be completed by 29 June, 2017, which period was extended by 78 weeks as per letter reference CAK/CL/PROC/VOL2/7 dated 20 September, 2018 which did not specify whether the extension was from the date of approval or from the previous expected date of completion. Management did not provide details of the revised work program to show the expected date of completion and evidence that the performance bond had been renewed to cover the extension of the contract period.

Further, the project's Bills of Quantities (BQs) provided for provisional sums totaling to Kshs.192,200,000 for various works which were sub-contracted and were currently being undertaken. However, details of how the sub-contractors were identified, selected and contracted to undertake the works were not availed for audit verification while approval by the Project Manager before the works were undertaken were not availed for audit review to confirm whether the general conditions of contract were adhered to.

At the time of the field audit inspection carried out in the month of October, 2019, the contractor was on site undertaking various works on doors, grilles, window panes/glazing, plastering, flooring, electrical and mechanical, chambers roofing and landscaping works.

Consequently, the Management is in breach of the law and value for money on construction of the County Assembly Complex as envisaged by the resident of Kwale County could not be confirmed.

3.0 Delay in Construction of Speaker's Official Residence

Annex 4 – summary of fixed assets register reflects buildings and structures of Kshs.606,148,957, out of which Kshs.86,213,477 relates to construction of the Speaker's official residence. Included in this amount is Kshs.46,411,072, being the contract sum for

construction of Speaker's main house which had been fully paid for as at 30 June, 2018. However, as previously reported, the contract sum was varied by Kshs.11,848,503 or 25.53% to Kshs.58,259,575, contrary to Section 139(6) of the Public Procurement and Assets Disposal Act, 2015 which states that 'where variations result in an increment of the contract price by more than twenty-five (25) percent, such variations shall be tendered for separately'. Further, the County Assembly has not been able to obtain ownership documents for part of the construction site land measuring 0.41 hectares.

During physical verification of the project in the month of October, 2019, it was observed that the residence had not been occupied despite the original completion date being 14 November, 2016, three (3) years after.

Consequently, the value for money of Kshs.58,259,575 on construction of the Speaker's official residence could not be confirmed.

4.0 Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees of County Assembly was sixty-one (61) out of which fifty-two (52) or 85 % of the total number were members of the dominant ethnic community in the county. This is contrary to 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 employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community". Further, forty-five (45) or 74% were of the male gender and sixteen (16) or 26% are of the female gender, contrary to Article 27(8) of the Constitution of Kenya, 2010 on two-third gender balance

Consequently, the Management is in contravention of the Law.

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, except for the matters 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 overall governance were not effective.

Basis for Conclusion

1.0 Manual Processing of Salaries

The statement of receipts and payments for the year ended 30 June, 2019 reflects compensation of employees of Kshs.240,511,732. However, a review of the Integrated Personnel and Payroll Database (IPPD) reports and related records indicated that an amount of Kshs.8,483,723 relating to salaries paid to some MCAs was manually processed and paid since the same members had not been defined in IPPD.

Manual processing and payment of salaries exposes the transactions to manipulations due to control weakness in the processes.

2.0 Lack of Information, Communication and Technology (ICT) Environment

A review of the County Assembly's ICT environment revealed that the County Assembly had not established IT Steering Committee and had no approved ICT policy.

In the absence of an IT Steering Committee and ICT policy, prevention of loss of data or recovery of lost data or sensitive information may be difficult or impossible.

3.0 Lack of Audit Committee

The Management has not established an Internal Audit Committee. As a result, there is no developed process of deliberating on audit findings or discussion on the internal audit reports from the Internal Audit Unit.

In the circumstances, I am unable to determine whether the County Assembly has put in place policies and procedures to ensure effectiveness of internal control to ensure that public resources are utilized for the intended purpose.

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 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 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 dissolve 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 County Assembly 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 overall 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 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 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 applicable 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

07 April, 2021