

# **REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF LAMU 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 Lamu set out on pages 1 to 35, 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, statement of appropriation and budget execution by programme and sub-programme 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 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 Lamu as at 30 June, 2019 and 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. Unconfirmed Use of Goods and Services Expenditures**

The statement of receipts and payments for the year ended 30 June, 2019 reflects payments totalling Kshs.183,036,866 being expenditures incurred on use of goods and services during the year under review, as further disclosed in Note 5 to the financial statements. However, several anomalies were noted in regard to the expenditures, as highlighted below:

##### **1.1 Rental Payments**

The cost of goods and services balance totalling Kshs.183,036,866 includes expenditures totalling Kshs.1,748,200 incurred on rental payments. However, Kshs.1,200,000 of the amount was incurred on rent for ward offices but this was not properly supported to confirm its validity and accuracy.

In addition, examination of the expenditure records indicated that rental agreements for five (5) wards and the committee house building expired on 1 April, 2019 but were not renewed.

In the absence of sufficient evidence, the propriety of the expenditure amounting to Kshs.1,200,000 incurred on rental payments during the year under review has not been confirmed.

## **1.2 Hospitality Supplies and Services**

Management paid Kshs.1,725,000 to a supplier reported to have provided catering services to the County Assembly. However, no documentary evidence was presented to confirm the supplier provided the services paid for.

In the absence of relevant evidence, the occurrence and validity of the expenditure totalling Kshs.1,725,000 reported as having been incurred during the year under review has not been confirmed.

## **1.3 Insurance Costs**

The use of goods and services expenditure balance totalling Kshs.183,036,866 includes Kshs.15,052,150 incurred on insurance costs which in turn include premiums amounting to Kshs.7,637,552 paid for staff medical insurance. However, procurement and payment documents for the insurance cover were not presented for audit examination. As a result, the occurrence and validity of the expenditure has not been confirmed.

In addition, the Assembly spent premiums totalling Kshs.4,727,400 on a medical scheme for Members of the County Assembly (MCAs). However, the premiums were paid at a rate higher than that approved by the Salaries and Remuneration Commission(SRC) and were, therefore, irregular.

## **1.4 Fuel, Oil and Lubricants**

Included in the use of goods and services balance totalling Kshs.183,036,866 is Kshs.4,054,500 incurred on fuel, oil and lubricants. However, payment vouchers for the expenditure were not supported with records of fuel drawn and work tickets as well as other relevant records. As a result, it is not possible to confirm the propriety of the expenditure totalling Kshs.4,054,500 reported to have been incurred on fuel and lubricants during the year under review.

## **1.5 Contributions to County Assemblies Forum**

Included in the use of goods and services expenditure totalling Kshs.183,036,866 are other operating expenses amounting to Kshs.9,429,354 which in turn include a sum of Kshs.3,900,000 paid to the County Assemblies' Forum.

However, documented evidence to confirm that the payments were received by the Forum has not been provided for audit review. Furthermore, no legal authority was cited in making the payments.

Consequently, the occurrence and validity of the expenditure totalling Kshs.3,900,000 reported to have been incurred on the County Assemblies Forum in the year ended 30 June, 2019 has not been confirmed.

### **1.6 Routine Maintenance - Vehicles and Other Transport Equipment**

The expenditure on use of goods and services includes payments amounting to Kshs.8,056,940 made during the year for maintenance of vehicles and other transport equipment. However, payments totalling Kshs.7,390,615 are not supported with motor vehicle work tickets, reports on defects, and before and after inspection certificates.

In the circumstance, the occurrence and propriety of the expenditure totalling Kshs.7,390,615 reported to have been incurred on maintenance of transport vehicles and equipment during the year under review has not been confirmed.

### **2. Unconfirmed Temporary Employees Wages**

Included in the compensation of employees expenditure totalling Kshs.147890,239 reflected in the statement of receipts and payments are transfers amounting to Kshs.8,040,000 made to Ward Offices to pay salaries for temporary workers employed in the Offices. However, documents to confirm the identities and other particulars of the payees, including the manner of their appointment, terms of engagement, receipt of payments and work done were not submitted for audit.

In the absence of relevant evidence, the occurrence, measurement and validity of the payments totalling Kshs.8,040,000 shown as having been paid to temporary employees working in various wards has not been confirmed.

### **3. Unconfirmed Acquisition of Assets Expenditure**

The statement of receipts and payments reflects acquisition of assets expenditure totalling Kshs.141,582,512 which in turn includes Kshs.49,427,000 incurred on purchase of land and buildings and Kshs.67,102,000 incurred on construction of buildings, as disclosed in Note 10 to the financial statements. However, procurement and payment documents to support the latter two sets of expenditures were not presented for audit review. The documents were reported to have been forwarded to the Ethics and Anti-Corruption Commission (EACC) for investigation.

In addition, the summary of fixed assets register, which is reflected as Annex 4 to the financial statements for the year under review, indicates that the County Assembly held non-current assets valued at Kshs.449,713,183 as at 30 June, 2019 against Kshs.308,130,671 as at 30 June, 2018. However, the County Assembly does not keep a register of its lands and buildings that shows terms of ownership of the assets, conveyance, location, dates and costs of acquisition, disposal and major changes in use and other details required by Section 136(2) of the Public Finance Management (County Government) Regulations, 2015.

As a result, the valuation, completeness and security of the non-current assets balance valued at Kshs.449,713,183 reflected in the summary of fixed assets register as at 30 June, 2019 has not been confirmed.

In the absence of relevant and complete records, the measurement, accuracy and validity of the expenditure on acquisition of lands and buildings totalling Kshs.141,482,512 reflected in the statement of receipts and payments for the year under review has not been confirmed.

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

### **Other Matter**

#### **Budgetary Control and Performance**

During the financial year under review, the approved budget for the County Assembly of Lamu totalling Kshs.654,000,000 comprised of Kshs.404,000,000 (70%) for recurrent expenditure and Kshs.250,000,000 (30%) for development expenditure. The budget was 13.5% of the total County Government budget totalling Kshs.4,846,739,676 which exceeded by 6.5 per centage points the limit set in Section 25(f) of the Public Finance Management (County Governments) Regulations, 2015.

During the year under review, the Assembly spent Kshs.355,980,518 and Kshs.116,529,000 on recurrent and development expenditure respectively. Therefore, the spending rates were equivalent to 88% and 72% of the respective budgets. Pending bills in the vote book as at 30 June, 2019 amounted to Kshs.1,382,004.

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Failure to absorb the whole budget constrained the scope of services offered by the County Assembly.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

## **Conclusion**

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in the 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. Meetings, Training and Events held outside Lamu**

During the year under review, the County Assembly spent Kshs.44,419,750 on various retreats, trainings and Management meetings. These included eighty-three (83) committee sittings held in Mombasa. However, no proper explanation has been provided by Management for holding the retreats and meetings and, further, why some of these were held in Mombasa and not in Lamu where accommodation and other costs would have been lower.

In the circumstances, the propriety and validity of the expenditure totalling Kshs.44,419,750 incurred on the said activities during the year under review has not been confirmed.

### **2. Training Courses Available in Kenya held Abroad**

Similarly the County Assembly incurred training expenses totalling Kshs.18,929,300 on courses attended by staff abroad. However, the courses were widely available in Kenya where travel and related costs incurred would have been lower. Further, reports submitted by the trainees upon return were not made available for audit review.

Consequently, the validity and value for the money incurred on the expenditure totalling Kshs.18,929,300 incurred on foreign travel and subsistence in the year under review has not been confirmed.

### **3. Single-Sourced and Exported Training**

The County Assembly spent a total of Kshs.29,477,893 on training expenses during the year under review. However, audit review of the expenditures revealed that ten (10) training courses were offered by one (1) institution at a total cost of Kshs.12,359,450. Further, although, the institution offers similar courses locally, six (6) of the ten courses procured by the County Assembly were held in Dubai and three (3) in Tanzania. Management has not provided satisfactory explanations why the courses conducted by a local trainer were held in more expensive destinations abroad.

In addition, the training services were procured directly without complying with Section 103 and 104 of the Public Procurement and Assets Disposal Act, 2015. No plausible

explanation has been provided for failure to procure the services through a competitive process.

Consequently, the propriety and validity of the training expenditure totalling Kshs.12,359,450 incurred on the institution has not been confirmed.

#### **4. Misapplication of Standing Imprests Account**

Cash records indicated that during the year under review, the County Assembly paid Kshs.1,341,000 to a supplier through the County's Assembly's imprests account operated in one of the local banks. The payments were made contrary to Section 82(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that imprest accounts should only be used to pay petty cash transactions.

No plausible explanation has been provided for the irregular action.

#### **5. Compensation of Employees**

##### **5.1 Overpayment of Monthly Allowances**

A review of salary and emoluments expenditure revealed that monthly allowances paid to Members of the County Assembly during the year under review exceeded by Kshs.2,413,026 the amounts due, as set by the Salaries and Remuneration Commission.

No proper explanation has been provided for the excessive payments.

##### **5.2 Personal Allowances Paid as Part of Salary**

Salary and emoluments records examined indicated that Kshs.12,251,500 was paid as sitting allowances to Members of County Assembly. However, a review of the expenditure revealed the following anomalies:

- i) Members of the County Assembly were paid sitting allowances for committee meetings while on other official duties or attending training and other workshops.
- ii) Members of the County Assembly were paid sitting allowances for various concurrent meetings.
- iii) Members of the County Assembly claimed and were paid sitting allowances for more than the prescribed limit of sixteen(16) committee and plenary sittings per month. The payments were made contrary to SRC Circular No .SRC/TS/CGOVT/3/16 on sitting allowances for Members of County Assemblies.
- iv) Eighty-three (83) committee sittings were held in hotels in Mombasa as opposed to Lamu resulting in payment of excessive domestic and subsistence allowances and

hotel conference charges contrary to Section 210(1) of the Public Finance Management (County Governments) Regulations, 2015.

- v) Eleven (11) County Assembly Members served in more than three Sectorial Committees contrary to Standing Order 157(3) of Lamu County Assembly.

In the circumstances, Public Finance Regulations intended to ensure control and probity in the management and use of public resources, were not observed by the County Assembly. Further, it is unlikely that any value was obtained by the residents of Lamu County from the irregular expenditures.

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. Weak Inventory Control**

A review of the controls over procurement of goods and services indicated that purchases for goods amounting to Kshs.4,101,680 were not recorded in the stores ledgers contrary to Section 162 of the Public Procurement and Asset Disposal Act, 2015.

As a result, accounting for stocks was not adequate and risk of losses and stock-outs was high.

#### **2. Weak Control over Standing Imprests**

Examination of cash records indicated that the County Assembly operated a standing imprests account in a local bank. However, a memorandum cash book was not maintained to record receipts and payments made through the standing imprest. In addition, bank reconciliation statements were not prepared and submitted to the Auditor-General each month as required by Section 90 of the Public Finance Management (County Governments) Regulations, 2015. Furthermore, bank reconciliation statements

were prepared manually and not in the Integrated Financial Management System (IFMIS) as expected.

Consequently, the internal controls over standing imprest were not operating in an effective way as at 30 June, 2019.

### **3. Audit Committee Not Appointed**

The County Assembly had no Audit Committee in place during the year under review contrary to Section 155(5) of the Public Finance Management Act, 2012. The Law requires each County Government to establish an Audit Committee with sufficient independence from Management as prescribed in Section 167(1) of the Public Finance Management (County Governments) Regulations, 2015.

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

### **4. Internal Auditor not Appointed**

During the financial year under review, the County Assembly of Lamu did not have an Internal Auditor contrary to Section 155 of the Public Finance Management Act, 2015, which states that a County Government entity shall ensure that it has appropriate arrangements for conducting internal audit according to the guidelines issued by the Public Sector Accounting Standards Board.

In the absence of an Internal Auditor, the internal control system was incomplete. As a result, the risk of ineffective management of public resources entrusted to the Assembly was high.

### **5. Lack of a Data Recovery Plan**

A review of the Information and Communication Technology (ICT) management system deployed by the County Assembly revealed that it did not have a Data Recovery Plan and ICT Security Policy. These are vital in effective and efficient management of an entity's IT resources. Furthermore, there was no ICT Steering Committee, which is vital for oversight and formulation of effective ICT management policies. In addition, there were no reports on use of ICT resources and therefore decision-making and control over the resources was not effective.

### **6. Lack of an Asset Management Policy**

The County Assembly is yet to document its Assets Management Policy. Therefore, there are no written guidelines on management of its assets including policies on acquisition, replacement and security. As a result, it is not possible to confirm whether the fixed assets of the County Assembly valued at Kshs.449,713,183 as at 30 June, 2019 are managed in an economic, efficient, effective and secure way.



The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

### **Responsibilities of Management and those Charged with Governance**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Assembly's ability to continue to sustain services, disclosing, as applicable, matters related to the sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to dissolve the County Assembly or 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 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 governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

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

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

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the 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 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 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**

**16 October, 2020**