

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF MIGORI 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 Migori set out on pages 1 to 23, 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-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, 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 the County Assembly of Migori as at 30 June, 2019, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and County Governments Act, 2012.

Basis for Qualified Opinion

1. Unsupported Expenditure – Use of Goods and Services

As disclosed under Note 7 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.373,310,630 under use of goods and services. Examination of available records revealed the following unsatisfactory matters: -

1.1 Ward Operation Expenses

The balance includes an amount of Kshs.102,360,000 relating to rental of produced assets which was paid as ward operation expenses for forty (40) County Wards. Further, an amount of Kshs.6,120,000 was allocated to seventeen nominated Members of the County Assembly (MCAs) for operations. However, it was noted that the Management paid rental expenses of Kshs.30,000 per month to each nominated Member of County Assembly while each elected Member of County Assembly was paid at flat rate of Kshs.200,000 per month. The expenditure was not supported with any verifiable and relevant documents.

1.2 Unsupported Domestic Travel and Subsistence Expenses

Further, the balance includes payments amounting to Kshs.139,291,382 relating to domestic travel and subsistence. The latter includes an expenditure of Kshs.27,643,934 that was not supported with relevant documentation such as work tickets, evidence of travel in form of bus work-tickets, attendance registers, minutes of meetings attended, work plan and work programmes.

1.3 Other Operating Expenses

In addition, the balance includes payments amounting to Kshs.17,115,832 relating to general operating expenses which were also not supported with relevant documents.

Consequently, the completeness, accuracy and validity of the use of goods and services of Kshs.373,310,630 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

2. Unreconciled Balances - Compensation of Employees

As disclosed under Note 4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.375,253,889 under compensation of employees. The balance includes an amount of Kshs.15,778,400 which was paid through manual payment vouchers outside the government recommended IPPD system in respect of committee allowances arrears and plenary sittings top up. Consequently, the accuracy, completeness and legality of the expenditure on committee allowance arrears of Kshs.15,778,400 could not be confirmed.

Further, the balance includes payments relating to pension and social security contributions of Kshs.25,041,177. The Management produced schedules totalling Kshs.25,049,179 in support of the expenditure, resulting in an unexplained variance of Kshs.8,002. Further, the approved supplementary budget reflects an amount of Kshs.17,826,768 for pension and other social security contributions while the actual expenditure is Kshs.25,041,177 leading to an over-expenditure of Kshs.7,214,409, which was not satisfactorily explained.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.375,253,889 on pension and other social security contributions could not be confirmed.

3. Accuracy of the Financial Statements

A review of financial statements revealed significant variances between the Integrated Financial Management Information System (IFMIS) figures and the financial statements. The statement of receipts and payments reflected total receipts of Kshs.989,82,265 while IFMIS records reflect a balance of Kshs.790,000,000 resulting to an unreconciled balance of Kshs.199,282,265. Similarly, the statement of receipts and payments reflects total payments of Kshs.945,900,493 while IFMIS records reflect a balance of Kshs.841,199,796 resulting to an unreconciled balance of Kshs.104,700,697. Management has not reconciled the differences between the two sets of reports.

Further, whereas the statement of receipts and payments for the County Executive of Migori reflects transfers to the County Assembly of Migori of Kshs.963,407,108, the amount differs with the Exchequer receipts of Kshs.928,127,065 reflected as transfers from the County Treasury received by the County Assembly during the year resulting to unreconciled variance of Kshs.35,280,043.

Consequently, the completeness and accuracy of the statement of receipts and payments for the year ended 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 Migori 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 other key audit matters to report in the year under review.

Other Matter

1. Pending Payables (Bills)

Disclosed under Note 5.10 to the financial statements are pending accounts payables of Kshs.107,393,379 as at 30 June, 2019, which were not settled during the year under review but were carried forward to the 2019/2020 financial year. Management has not explained the cause of the outstanding bills and measure it is putting in place to deter the accumulation of pending bills.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

2. Budget Control

The County Assembly had an approved budget of Kshs.438,857,522 and Kshs.100,000,000 on compensation of employees and acquisition of assets respectively, against actual expenditure of Kshs.375,253,889 and Kshs.78,486,603 leaving Kshs.63,603,633 or 14% and Kshs.21,511,397 or 22% as under expenditure or 14%.

The under absorption of the approved budget is an indication of activities not implemented by the County Assembly leading to non-provision of services to the citizens of Migori County.

3. Unresolved Prior Year Matters

In the audit report of the previous year, a number of issues were raised under the Report on Financial Statements. However, Management has not resolved the issues nor disclosed the prior year matters as provided by the Public Sector Accounting Standards Board templates and by The National Treasury's Circular Ref: PSASB/1/12 Vol.1(44) of 25 June, 2019.

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 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. Projects not in use

During the year under review, the County Assembly undertook twenty-one (21) projects with a total cost outlay of Kshs.104,734,116. However, physical verification revealed the status as indicated in the attached Appendix I.

Although the twenty-one (21) projects' status were indicated as complete, fourteen (14) had not been commissioned, an indication that the facilities were not being used effectively.

Consequently, the value for money has not been fully realized with regard to the expenditure of Kshs.104,734,112.

2. Acquisition of Assets

The acquisition of assets expenditure of Kshs.78,488,603 includes an amount of Kshs.3,823,903 which was paid for the construction of the County Assembly Prefabs Buildings - Container House by a contractor while an amount of Kshs.8,633,736 was paid for the architectural design of Speaker's residence. However, the inspection and acceptance certificate were not provided for audit.

Consequently, the accuracy and regularity and value for money of the expenditure of Kshs.78,488,603 could not be confirmed.

3. Non-Compliance on Regional Composition

The analysis of regional composition of the assembly staff indicated that the dominant ethnic community in Migori County comprised 78% of the Assembly staff while the remaining 22% of the positions were shared among the other six ethnic communities 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".

The Assembly should strive to bridge the gap and embrace the diversity of our country.

4. Unauthorized Expenditure

The County Assembly had an approved budget of Kshs.200,000 and Kshs.15,000,000 on finance costs and Other payments-mortgages respectively against actual expenditure of Kshs.4,501,578 and Kshs.114,345,793 leading to over expenditure of Kshs.4,301,578 or 225% and Kshs.99,345,793 or 662%. The over-expenditure is an indication of lack of expenditure control and prudence in the use of public resources contrary to the requirements under Article 201(d) of the Constitution of Kenya.

In the circumstances, the efficiency and effectiveness in the use of public resources could not be ascertained.

5. Lack of an Approved Staff Establishment

The County Assembly did not have an approved staff establishment to indicate the authorized staffing levels during the year under review. Further, no evidence was provided to indicate that the Assembly had carried out job evaluation to determine the staff requirements and optimum number of employees for each category. This is contrary to the provisions of Section 66 of the County Governments Act, 2012 and Section 6(3)(B) of the County Assembly Public Service Human Resource Manual that requires the Assembly to have an approved staff establishment.

In the circumstances, the Management is in breach 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. Poor Controls on Cash Transactions

It was observed that the Management significantly operated on cash transactions in 2018/2019 financial year. An audit of a sample of bank statements revealed that the Assembly on various dates withdrew a total of Kshs.58,073,500 in cash for office use.

In the circumstances, the Assembly is exposed to risks of fraud and theft which are inherent in cash transactions.

2. Lack of Risk Management Policy Framework

A review of risk management processes revealed that the County Assembly did not have an approved Risk management Policy Framework during the year 2018/2019. Further, there was no documentary evidence to confirm that the Assembly had

conducted a risk assessment to identify the potential risk exposure, possibility of their occurrences and the mitigating strategies.

In the circumstances, Management may not be able to respond effectively in an event of a disaster.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. 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 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 ability 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 noncompliance. 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 ability of the County Assembly 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

26 January, 2021

Appendix I: Projects Status

Nature of Work	Location	Date of Contract	Project Cost Kshs.	Status	Operational
MCA Ward Office-Gokeharaka	Gokeharaka	1-12- 2016	5,660,950	Completed	Commissioned
MCA Ward Office-North Kanyamkago	Ayego	24-5-2016	5,674,128	Completed	Not Commissioned
MCA Ward Office-Muhuru Bay	Muhuru	4-4-2016	6,084,142	Completed	Not Commissioned
MCA Ward Office-Masaba	Masaba	2-12-2015	4,892,775	Completed	Not Commissioned
MCA Ward Office-God Jope	God Jope	16-5-2016	4,524,719	Completed	Not Commissioned
MCA Ward Office-West Sakwa	Nyatambe	16-5-2016	5,876,677	Completed	Not Commissioned
MCA Ward Office-Komosoko/ Nyamosense	Komosoko	4-4-2016	5,418,713	Completed	Not Commissioned
MCA Ward Office-Kachieng	Sori	2-12-2015	5,040,896	Completed	Commissioned
MCA Ward Office-South Kanyamkago	Uriri	4-4-2016	5,802,152	Completed	Commissioned
MCA Ward Office-West Kanyamkago	Wang-Chieng	3-5-2016	5,741,302	Completed	Commissioned
MCA Ward Office-Wasweta II	Kababu	13-6-2014	4,541,880	Completed	Commissioned
MCA Ward Office-Ntimaru West	Ntimaru Town	4-8-2014	4,588,743	Completed	Not Commissioned
MCA Ward Office-North Sakwa	Kuja	23-4-2015	4,203,258	Completed	Not Commissioned
MCA Ward Office-Makerero	Taragwiti	11-6-2015	4,168,519	Completed	Not Commissioned

Nature of Work	Location	Date of Contract	Project Cost Kshs.	Status	Operational
MCA Ward Office-Suna Central	Next to county Assembly	21-7-2015	4,608,571	Completed	Commissioned
MCA Ward Office-Tagare	Mabera	11-6-2015	4,759,259	Completed	Not Commissioned
MCA Ward Office-Bukira East	Kehancha	11-6-2015	4,332,623	Completed	Not Commissioned
MCA Ward Office-North Kadem	Agenga	23-8-2014	4,496,751	Completed	Commissioned
MCA Ward Office-Kaler	Olas Trading Centre	26-11-2014	4,200,615	Completed	Not Commissioned
MCA Ward Office-Nyabasi west	Nyabasi	4-4-2016	5,538,489	Completed	Not Commissioned
Completion of Macalder MCA's office	Osiri	1-6- 2015	4,578,950	Completed	Not Commissioned
Total			104,734,112		