

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

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Siaya set out on pages 13 to 48, which comprise the statement of financial assets and liabilities as at 30 June 2018, and the statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of County Assembly of Siaya as at 30 June 2018, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Differences Between the Integrated Financial Management System (IFMIS) Balances and the Financial Statements

1.1 Total Payments

The statement of receipts and payments reflect total payments of Kshs.638,592,555 while the Integrated Financial Management System reflects total payments of Kshs.648,820,288 resulting in unreconciled difference of Kshs.10,227,733

1.2 Misstatement of the Surplus

The statement of receipts and payments reflects a surplus figure of Kshs.115,873 which however differs with the IFMIS report figure of Kshs.(66,820,288.10). Under normal circumstances the two balances should always tally. No explanation or reconciliation was provided for the difference.

2. Understatement of Fund Opening Balance

Included in the comparative figures in the statement of assets and Liabilities for the year ended 30 June 2017 is Kshs.2,165,833 which includes bank balance of Kshs.7,798, cash balance of Kshs.242,210 and outstanding imprest of Kshs.1,915,825 which has not been included in the statement of assets and liabilities as fund balances brought forward. Further, Note 11 to financial statement reflect cancellation of fund balance brought forward of Kshs.2,158,035. However, this cancellation is not explained nor supported by journal entries .

As a result, the accuracy and completeness of cash and cash equivalents could not be confirmed.

3. Summary of Fixed Asset Register

Annexure 3(1) of the summary of the fixed asset register reflects assets totalling Kshs.192,555,772 as 30 June 2018. However available records indicates that the County Assembly does not maintain an updated asset register and it was therefore not possible to ascertain the nature, number, physical location and fair value of the Assembly's assets contrary to Regulation 136(1) of the Public Finance Management Regulations ,2015 which requires that the accounting officer shall be responsible for maintaining of an asset register of assets under his/her control or possession. Further, management does not tag their assets with unique codes as required by the County Assembly of Siaya Financial Policy and Procedures Manual page 40 paragraph 12.3 (d)

Under the circumstances, the accuracy and completeness of the total assets figure of Kshs.192,555,772 as at 30 June 2018 could not be confirmed.

4. Unsupported Pending Bills

Pending bills of Kshs.12,934,525 disclosed in the financial statements and under Annex 1 and 2 includes bills amounting to Kshs.8,739,613 which were not supported with any documentary evidence such as contract, local purchase orders, local service orders, invoices, delivery notes and payment vouchers. Further, it was established that the County Assembly failed to requisition for Kshs.10,664,559 from the County Revenue Fund for its recurrent expenditure which could have taken care of the pending bills.

Consequently, the propriety and validity of Kshs.8,739,613 pending bills could not be confirmed.

5. Failure to Include Development Vote in the Statement of Appropriation

Included in the County Assembly development budget is Kshs.300,679,659 set aside for the construction of Assembly building, speaker's residence, and purchase of hansard equipment among other items. Out of the budgeted amount, only Kshs.56,708,429 was received leaving a balance of Kshs.243,971,230. No evidence has been provided to confirm whether the unspent balance of Kshs.244,219,332 was re-voted for the project in the financial year 2018/2019 as required by Section 116(1) of the Public Finance Management Regulations 2015 (County Government .

Consequently, the accuracy and completeness of the statement of receipts and payments as regards expenditure could not be confirmed as at 30 June 2018.

6. Un-Accounted for Fuel

The County Assembly of Siaya engaged the services of a local entrepreneur for the supply and delivery of fuel, oil and lubricants. However, at the time of audit it was noted that fuel worth Kshs.500,000 ordered vide LPO No.2917056 dated 20 March 2018 and invoice

No.1370 dated 09 March 2018 respectively was paid for, yet there was no proof of detail orders and suppliers statement indicating how the fuel was consumed by the Assembly although the Assembly's bank statement shows that the money was disbursed to the supplier.

Consequently, the propriety of the fuel expenditure of Kshs.500,000 on fuel could not be confirmed .

7. Failure to Remit the Withheld VAT

Pending bills figure of Kshs.12,934,525 as reflected in the annex 1 and 2 to the financial statements does not include an amount of Kshs.2,197,778 in respect to withholding tax deducted from taxable supplies in the year but not yet remitted to Kenya Revenue Authority as at 30 June 2018.

8. Un-Authorized Payment for Compensation of Employees

The payment vouchers for the compensation of employees in the months of September, 2017 and in April, June 2018 amounting to Kshs.73,752,970 were not duly authorised that is, signed and stamped by the relevant officers to indicate approval for payments contrary to Public Finance Management County Government Regulations 2015 Section 105(1). In circumstance, the accuracy of the compensation of employess cannot be ascertained and the management is in breach of the law.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Assembly of Siaya in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

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

1. Fuel, Oil and Lubricants Expenditure

Included under use of goods and services, is the expenditure on fuel, oil and lubricants of Kshs.5,337,075 which increased by Kshs.2,071,929 from Kshs.3,265,146 in the year 2017. However, this material increase in fuel oil and lubricants expenses by 40% has not been explained or justified. Further, M/S The Kings and Queens Investments was paid Kshs.308,060 vide voucher No. 30012978 dated 25 June, 2018 being in respect for the supply and delivery of paper shredders, and desktop computers HP pavilion. However, the payment voucher was not authorized by the accounting officer as required.

2. Budgetary Performance and Control

The Assembly revenue was budgeted at Kshs.893,344,218 against the actual receipts of Kshs.638,708,429 representing an overall under collection of Kshs.254,635,789 or 29% this was mainly due to non-receipts of the exchequer from the development vote by 81%. Further, the Assembly spent Kshs.638,592,555 against a budget of Kshs.893,344,218 representing under expenditure of Kshs.254,751,663 or 71% this was due to development expenditure where the Assembly only utilised Kshs. 56,708,429 out of the budgeted Kshs.300,679,659.

3. Project Implementation Status

The County Assembly did not provide the status of all the projects implemented during the year as a result it was not possible to ascertain that all the projects were implemented within the specified period vis a vis approved budget and as per the terms specified in the contractual agreements

REPORT ON COMPLIANCE LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC MONEY

Conclusion

As required by Article 229(6) of the Constitution, because of the significance of the matter 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, 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

Payment of Legal and Consultancy Services

The County Assembly engaged the services of a legal firm vide letter dated 16th May 2018 instructing the law firm to seek interpretation of Section 35 of the County Government Act, 2012 from the High Court. According to the instructions, payments were to be made upon submission of the evidence of filing the petition, status report on the matter, itemized fee note as per the provisions of the Advocates Remuneration Act. The advocate submitted a fee note of Kshs.1,830,000 out of which Kshs.1,643,844 was paid during the year. However, by the month of November 2018, the advocate had not yet obtained an interpretation from the High Court.

Further, a consulting firm was hired by the Assembly on 4th December 2017 to draft the proposed Siaya County Alcoholic Drinks Control Regulations (2017) and Siaya County Bursary Regulations (2017) to comply with the Constitution of Kenya 2010 and the County Government Act, 2012 at a cost of Kshs.2,000,000. The consultant was required to carry out public participation meetings, harmonize and submit the final draft regulations for consideration by the County Assembly. However, although the draft regulations were submitted to the County Assembly, they are yet to be enacted in laws by the Assembly.

Consequently, the regularity and propriety of the legal fee expenditure totalling Kshs.3,643,844 could not be confirmed.

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, GOVERNANCE AND RISK MANAGEMENT SYSTEMS

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 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. Internal Control system

The County Assembly Service Board vide minute No CASB /5/07/05/18 resolved that the Deputy Clerk be nominated as an alternate bank signatory with no limits on Account No.1143428927 held at the Kenya Commercial Bank. This decision by the Board contravenes Section 23 of the Public Finance Management County Government Regulations 2015 which requires that the accounting officer to delegate authority to incur expenditure in accordance with any limits prescribed by the accounting officer and as prescribed in paragraph 8.1.4 of the County Assembly's Finance Policy and Procedures Manual.

2. Failure to Establish an ICT Steering and Strategic Committees

The management of the County Assembly has not established an IT steering committee, an IT strategic plan and hence has not come up with an IT strategic plan. Consequently, the management is in breach of the regulations.

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and Those Charged with Governance

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.

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

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public money is applied in an effective manner.

Those charged with governance are responsible for overseeing the County Assembly of Siaya 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 review is planned and performed to express a conclusion with limited assurance as to whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution. The nature, timing and extent of the compliance

work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7 (1) (a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

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

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

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- 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 of Siaya ability to continue as a going concern or 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 of Siaya to cease to continue as a going concern or 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 of Siaya 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