

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

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Turkana County Assembly set out on pages 1 to 23, which comprise the statement of assets and liabilities as at 30 June 2018, and the statement of receipts and payments, statement of cash flows, summary statement of comparison of budget and actual combined, summary statement of comparison of budget recurrent, summary statement of comparison of budget development 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 Turkana County Assembly as at 30 June, 2018, 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.

Basis for Opinion

1.0 Financial Statements Presentation and Disclosure

The financial statements for the year ended 30 June 2018 submitted for audit does not include Progress on follow up on all auditor's recommendations arising from auditor's report for the year ended 30 June 2017. Under the circumstances, the financial statements for the year ended 30 June 2018 do not conform to the revised financial statement reporting templates approved by the Public Sector Accounting Board Vide Circular Ref AG/4/16/1/Vol.IV/76 dated 13 July 2017.

Consequently, the financial statements presentation and disclosure could not be confirmed.

2.0 Acquisition of Assets

2.1 Construction of Speaker's Residence

The statement of receipts and payments reflects asset acquisition figure of Kshs.47,334,168 for year ended 30 June 2018 as disclosed in note 10 to the financial statements which includes an amount of Kshs.19,504,356 paid on 18 May 2018 to a construction company for construction of Speaker's residence.

Turkana County Assembly advertised tender No.TCA/8/2015-2016 in a local daily of 10 June 2016 for the construction of Speaker's residence main works. The tender was awarded to the construction firm at a contract sum of Kshs.75,016,755.68. The letter of notification of award was issued on 27 June 2016 and letter of acceptance received on 1 August 2016.

Physical verification of the project carried out in November 2018 revealed that the Speaker's Residence works is about 40% complete, the contractor was not on site and it's not known when the work will be completed. Consequently, the propriety of the expenditure of Kshs.19,504,356 could not be confirmed for the year ended 30 June 2018.

2.2 Construction of New County Assembly Offices

The construction of buildings figure of Kshs.47,334,168 as disclosed in note 10 to the financial statements for the year ended 30 June 2018 includes an amount of Kshs.21,931,724 paid on 18 May 2018 to construction company towards construction of new County Assembly offices.

Turkana County Assembly advertised tender No.TCA/9/2015-2016 in a local daily of 10 June 2016, for the construction of New County Assembly Offices Main works. The tender was awarded to a construction company at a contract sum of Kshs.179,736,282. The contract agreement was signed on 28 June 2016. The letter of notification of award was issued on 27 June 2016 and letter of acceptance received on 28 June 2016.

There was no evidence that the Turkana County assembly notified unsuccessful tenderers in writing contrary to section 87(2) of Public Procurement and Asset Disposal Act, 2015. The contract signed on 28 June 2016 does not have clause indicating the expected start date and the period to complete the works contrary to Section 129 (2) of the Act.

Physical verification carried out in November 2018 revealed that the restaurant works is about 70% and the county assembly building is about 35% complete. Consequently, the propriety of the expenditure of Kshs.21,931,724 could not be confirmed for the year ended 30 June 2018.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Turkana County Assembly in accordance with ISSAI 30 on code of ethics. I have fulfilled other ethical responsibilities in accordance with ISSAIs and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence 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

1.1 Budget Absorption

During the year under review, Turkana County Assembly had an approved budget of Kshs.1,232,465,219 comprising of recurrent vote budget of Kshs1,027,533,899 and a development vote budget of Kshs.204,931,320 out of which an amount of Kshs.1,059,923,442 was spent during the year. At the end of the financial year ended 30 June 2018, the budget performance reflected an overall under-absorption of Kshs.172,541,777 or 14% as indicated below.

Vote	Approved 2017/18 budget (Kshs)	Actual Expenditure 2017/18 (Kshs)	Under-absorption (Kshs)	%
Development	204,931,320	47,334,168	157,597,152	77
Recurrent	1,027,533,899	1,012,589,275	14,944,624	1
Total	1,232,465,219	1,059,923,443	172,541,777	14

1.2 Development Budget

The county assembly had a development budget of Kshs.204,931,320 for year ended 30 June 2018 for construction of; speakers residence, county assembly offices and ward offices and for purchase of CCTV cameras and ICT equipment. During the year, an amount of Kshs.47,334,168 or approximately 23% of development budget utilized in construct speakers residence resulting under absorption of development budget by Kshs. 157,597,152 or approximately 77%. This is likely to hamper service delivery to residents of Turkana County.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC MONEY

Conclusion

As required by Article 229(6) of the Constitution, based on the procedures performed, except for the matter described in the Conclusion on Compliance and Effectiveness section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public money has not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Compensation of Employees

1.1 Expenditure on Salary Emoluments and Benefit

The statement of receipts and payments reflects compensation of employee's figure of Kshs.487,638,593 which is approximately 47% of the total revenue of Kshs.1,033,455,964 and thus exceeds the recommended ratio of 35% stipulated in Section 25 (1) of the Public Finance Management (County Governments) Regulations 2015. Consequently, the County Government is in breach of the law and the wage bill may not be sustainable unless adequate measures are put in place to contain the rising wage bill.

1.2 Employees Receiving Net Pay of Less Than One Third

Included in compensation of employees' amount of Kshs.487,638,593 is basic salaries of permanent employees amount of Kshs.117,048,980. A review of the Assembly's payroll for the year ended 30 June 2018 revealed instances of employees of the County Assembly receiving net salaries which were less than a third of their respective basic salaries contrary to Section 19(3) of the Employment Act 2007, which states that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

1.3 Employment of Staff New Members

During the year, the County Assembly Service Board recruited one hundred and two (102) new staff members comprising of ten (10) county staff and ninety-two (92) wards staff. The Board did not advertise the one hundred and two (102) vacant positions and there were no interviews conducted to determine the suitability of staff recruited contrary to section 65 (1) (f) County Governments Act, 2012 requires open and transparent recruitment of public servants and section 66 of the Act that requires the Board invites applications through advertisement and other modes of communication so as to reach as wide a population of potential applicants as possible and especially persons who for any reason have been or may be disadvantaged. Management was therefore in breach of the law.

1.4 Failure to Observe One Third Staff Establishment Rule

Audit review of personnel records availed for audit review revealed that as at 30 June 2018, Turkana County Assembly had a total of two hundred and twelve employees (212) excluding members of county assembly, out of whom two hundred and four (204) or 96% of staff were from the dominant community leaving 8 (eight) or 4 % from other communities contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 that requires all public establishments to seek to represent the diversity of the people of Kenya in employment of staff and that no public establishment shall have more than one third of its establishment from the same ethnic community for promotion of national unity.

1.5 Non- Remittance LAFUND Salary Deductions

The statement of receipts and payments reflects compensation of employees' figure of Kshs.487,638,593.66 which includes pension and other social security contributions of amount Kshs.37,792,495. Audit review of personnel records and payment records revealed that LAFUND deductions for the months of October 2017 and March 2018 totaling to Kshs.3,354,257 was not remitted to LAFUND contrary to Section (3) of Local Authorities Provident Fund Act, Cap 272 which requires every employer to contribute to the Fund monthly, in addition to the sums deducted from its employees pursuant to section 9 of this Act.

1.6 Irregular Staffing

According to the Commissioner on Revenue Allocation (CRA), the recommended total number of staff for Turkana County Assembly which is in category II with 30 wards is 88. However, as at 30 June 2018, the Assembly had a total of 212 staff excluding the Hon members and therefore the Assembly is over staffed by 124 staff members. Further, there was no service scheme developed by the Assembly to regulate grading structures and remunerations. The County assembly is therefore in breach of the law.

2.0 Unutilized Gymnasium Equipment

As reported in the previous year, the County Assembly awarded a contract to a firm for the supply and delivery of gym equipment and paid a total of Kshs.7,500,000 for the supply and delivery of gym equipment. However, the management did not avail important support documents such as bid documents, contract agreements, report of the inspection and acceptance committee to confirm that the goods received had the correct specification and the right quantities as per the tender documents and evidence of any testing on the equipment conducted to confirm they were working before effecting the payment. Audit review during 2017/2018 financial year revealed that the County Assembly did not have a gym room and the equipment were lying idle and had not been installed. Consequently, the objective procuring the gym equipment has not been achieved and no value for money spent on the equipment has been obtained.

3.0 Outstanding Imprest

The statement of financial assets and liabilities reflects account receivables- Outstanding Imprests amounting to Kshs.14,887,942 as at 30 June 2018 as disclosed in note 14 to the financial statements. The outstanding imprest includes an amount of Kshs.9,864,556 held by various officers that was due for surrender before 30 June 2018. It also includes an amount of Kshs.10,290,706 held by various officers with multiple imprest contrary to Section 93(5) of public Finance Management (County Governments) Regulations, 2015 which stipulates that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station and section 93(8) that require accounting officer or AIE Holder to ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.

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 procedures performed, except for the matter described in the Conclusion on Effectiveness of Internal Controls 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

Information Communication Technology (ICT)

During the year under audit review of the Information and Communication Technology (ICT) of Turkana County Assembly revealed that the Assembly did not have data recovery and business continuity plans and approved IT security policy. Such policies are vital in effective and efficient management of the entity's IT resources.

Further, the County Assembly did not have an IT steering committee which is important in performing the oversight function and formulation of policies to ensure that IT department functions properly to assist in achievement of organizational objectives in an economic, efficient and effective way.

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 Turkana County Assembly 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 Turkana County Assembly 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 Turkana County Assembly 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 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 Turkana County Assembly 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 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 Turkana County Assembly 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 Turkana County Assembly 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 Turkana 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.

A handwritten signature in black ink, appearing to read 'E. O. Ouko', with three dots below the name.

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

Nairobi

10 January 2019