

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF TURKANA 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 Turkana set out on pages 1 to 23, which comprise 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 and development 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 Turkana 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. Unreconciled Cash Balance

The statement of financial assets and liabilities as at 30 June, 2019 reflects an aggregate cash and cash equivalents balance of Kshs.14,408,333, as further disclosed in Note 13A to the financial statements. However, the amounts for the three (3) bank accounts included in the balance do not tally with the respective Integrated Financial Management System (IFMIS) Cashbook balances as detailed below:

Account Name	Financial Statements Balance (Kshs.)	IFMIS Cashbook Balance (Kshs.)	Unexplained Difference (Kshs.)
Development Account	14,373,918	(189,588,206)	203,962,124
Recurrent CBK	191	2,095,062.55	2,094,871
Recurrent KCB	34,224	Not disclosed	
Total	14,408,333		

No reconciliations have been provided for the differences. Further, contrary to the reporting format prescribed by the Public Sector Accounting Standards Board(PSASB), the financial statements do not include bank reconciliation statements for the three (3) bank accounts as at 30 June, 2019.

As a result of these anomalies, the accuracy and completeness of the cash and cash equivalents balance of Kshs.14,408,333 reflected in the statement of assets and liabilities as at 30 June, 2019 has not been confirmed.

2. Unsupported Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets payments totalling Kshs.317,050,664, as further disclosed in Note 10 to the financial statements. The balance includes Kshs.39,570,881 paid for construction of the County Assembly's office building. Payments made in respect to the project totaled Kshs.65,570,881 as at 30 June, 2019, including Kshs.26,000,000 paid on behalf of the County Assembly by the County Executive in 2017/18.

The ongoing works were assessed by Management as 70% complete in November, 2019. However, the contract agreement and progress of works reports, were not availed for audit review. As a result, it was not possible to verify the reported level of works completed and whether these were done as provided for in the contract agreement.

In addition, the acquisition of assets balance, includes Kshs.95,431,284 spent on construction of twenty-five (25) Member of County Assembly (MCA) Ward Offices under contracts valued at Kshs.295,752,194 in aggregate. However, Management did not avail status reports on five (5) MCAs Ward Offices. As a result, the works completion rates attained by the projects could not be confirmed.

The balance further includes retention payments totalling Kshs.14,314,510 shown as brought forward from the previous year. However, no deposit payables were included in the financial statements for the year ended 30 June, 2018. Therefore, the source and nature of the retention payments reflected in the financial statements for the year under review has not been confirmed.

In view of these anomalies, the accuracy and validity of the acquisition of assets payments totalling Kshs.317,050,664 reflected in the statement of receipts and payments for the year ended 30 June, 2019 has not been confirmed.

3. Unconfirmed Pending Bills

Note 1.2 of Other disclosures to the financial statements reflects pending accounts payables in respect to construction of buildings and supplies of goods and services totalling Kshs.71,251,247. However, invoices and certificates for the balance were not availed by Management.

Consequently, the valuation, validity and accuracy of the pending accounts payables balance of Kshs.71,251,247 as at 30 June, 2019 has not been confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Turkana 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. I have determined that there were no key audit matters to report in the year under review.

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. Stalled and Incomplete Projects

Fourteen (14) projects contracted at an aggregate cost of Kshs.462,121,832 with payments totalling Kshs.304,488,679 made to the respective contractors as at 30 June, 2019, were reviewed during the audit.

Eight (8) of the projects contracted at Kshs.82,323,122 were not completed. Payments made to the respective contractors at the time of the audit totaled Kshs.26,155,324, equivalent to 32% of the contracts sum. Similarly, one (1) project for construction of the Speaker's residence at Kshs.75,016,756 had stalled with payments totalling Kshs.45,610,187 or approximately 61% of the contract sum having made to the contractor. Additional observations made during the audit inspections are outlined in the Appendix to this report.

Management has not disclosed the actions it has taken to revive and complete the stalled projects.

In view of the stalled works, the residents of Turkana County have not obtained any value for money on the funds invested in the stalled projects.

2. Failure to Pay Borrowed Funds

The statement of receipts and payments for the year ended 30 June, 2019 reflects other receipts comparative (2018/2019) balance of Kshs.5,000,000. The sum was borrowed in 2017/2018 financial year from Turkana County Assembly's Car Loan and Mortgage Members Fund and used to meet the County Assembly's financial obligations. It was to be repaid upon receipt of exchequer releases from The National Treasury. However, the repayment had not been made as at 30 June, 2019.

There was no evidence to show that the borrowing of funds was authorized by the County Assembly and further, no explanation has been provided by Management for failure to repay the funds.

3. Non-Compliance with Law on Wage Bill

The statement of receipts and payments reflects compensation of employees expenditure totalling Kshs.436,983,615 equivalent to 38% of the total revenue for the year under review amounting to Kshs.1,189,677,492. The balance exceeds the recommended threshold of 35% prescribed for compensation of employees expenditure in Regulation 25 (1) of the Public Finance Management (County Government) Regulations, 2015. No explanation has been provided by Management for the breach of the wage bill limit.

Consequently, the Management is in breach of the regulations.

4. Failure to Observe One-Third Staff Establishment Rule

Review of personnel records revealed that, the County Assembly had a total of three hundred and twenty-four (324) employees out of whom three hundred and twelve (312) or approximately 97% were from the dominant community in the County. Further, during the year under review, the County Assembly's Public Service Board recruited twenty (20) new staff all of whom were from the dominant community in the County. The appointments flouted Section 65(e) of the County Governments Act, 2012 which prescribes that at least 30% of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community in a County.

Consequently, the Management is in breach of the law.

5. Non Compliance with the One-Third Rule on Basic Savings

Section 3 of the Employment Act, 2007 (First Schedule) provides that the wages paid to an employee shall not be less than one-third of the monthly pay after statutory and other deductions.

However, sampled review of the County Assembly's payroll indicated that some employees received net salaries that were less than one-third of their respective basic salaries after Management allowed excessive non-statutory deductions for loans and other check-off payments.

No explanation has been provided by Management for the anomaly that put the staff at risk of pecuniary embarrassment.

Consequently, the Management is in breach of the law.

6. Delay in Construction of New County Assembly Offices

During the year under review, the County Assembly paid Kshs.126,030,410 to a contractor for construction of new County Assembly offices at a contract sum of Kshs.179,736,282. As at 30 June, 2019, cumulative payments to the contractor amounted

to Kshs.147,962,134, including payments totalling Kshs.21,931,724 made during the 2017/2018 financial year.

The tender for the works was awarded in June, 2016. However, as previously reported, the contract did not specify the dates which the works were to start and end. Audit verification carried out in December, 2019 revealed that the restaurant works were approximately 70% complete. However, the expected completion date was not disclosed by Management.

Consequently, I am unable to confirm when the construction works will be completed and the expected value for money obtained on public funds spent on the project.

7. Outstanding Imprests

Regulation 93(5), (8) of the Public Finance Management (County Governments) Regulations, 2015 requires a holder of a temporary imprest to account for or surrender the imprest within seven (7) working days after returning to the duty station. In addition, a second imprest should not be issued to any officer before the previous one is surrendered or recovered in full.

However, review of imprest records indicated that all of the imprests, totalling Kshs.21,675,715, reflected in the statement of assets and liabilities as at 30 June, 2019 were overdue for surrender. Further, the imprest balance included Kshs.14,644,700 held by several officers issued with multiple imprests, contrary to regulations.

Consequently, the Management is in breach of regulations on management of temporary imprests. Further, I am unable to confirm whether the outstanding imprests were used for their intended purposes.

8. Irregular Banking of Deposits and Retentions

Examination of deposits and retentions records indicated that the County Assembly had deposits totalling Kshs.26,085,257, as reflected in the statement of financial assets and liabilities as at 30 June, 2019, under account payables-deposits and retentions. However, the deposits were held in the County Assembly's Development Vote bank account contrary to Clause 6.11 of National Treasury Accounting and Financial Reporting manual for County Governments which prescribes a separate bank account for deposits and retentions.

Consequently, Management is in breach of regulations on accountable management of cash balances.

9. Use of Manual Payroll

Records availed for audit indicated that during the year under review, staff salaries and allowances were processed through both the Integrated Personnel and Payroll Database (IPPD) and non-IPPD spread sheets. The payments made through the two systems amounted to Kshs.418,079,390 and Kshs.18,904,225 respectively. No explanation has been provided by Management for failure to process all the payments through the prescribed IPPD system.

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 sections 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

Lack of Risk Management Policy

Section 158(1) of the Public Finance Management (County Governments) Regulations, 2015 requires each County Government entity to establish a system of risk management that supports robust business operations. However, Management has not availed evidence that it has established a risk management system to manage unfavorable events that may disrupt the operations of the County Assembly.

In the circumstances, I am unable to confirm whether the County Assembly has capacity to manage risks in an effective 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 overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those charged with Governance

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

In preparing the financial statements, Management is responsible for assessing the County Assembly's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of 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 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 in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of

the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

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

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

- Identify and assess the risks of material misstatement 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 County Assembly's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the County Assembly to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the County Assembly to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and 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

25 January, 2021

Appendix: Stalled and Incomplete Projects

No	Project Name	Contract Sum	Total Payments as at 30 June, 2018 Kshs.	Amount Paid in 2018/2019 Kshs.	Total Payment as at 30 June, 2019 Kshs.	Status	Observations
1	Construction and completion of MCA Ward Office at Kalobeyei Ward	12,489,756	-	4,448,509	4,448,509	97%	On-going
2	Construction and completion of MCA Ward Office at Kakuma Ward	11,821,571	-	4,866,286	4,866,286	85%	On-going. The contractor was on site. Roofing, walling, plastering. Fencing and ceiling not yet done
3	Construction and completion of MCA Ward Office at Lokichogio Ward	3,807,081	-	3,807,081	3,807,081	70%	On-going. The contractor was on site. Roofing and walling done. Plastering, ceiling, windows and doors not done.
4	Construction of County Assembly Ultra-Modern County Assembly Chamber	203,809,234	28,000,000	126,030,410	154,030,410	70%	On-going. The contractor was on site. Roofing, walling done. Plastering and ceiling, windows, doors were not done.
5	Construction and completion of MCA Ward Office at Kang'atotha Ward	12,413,140	-	4,450,723	4,450,723	80%	The contractor was not on site. Roofing, walling, plastering done. Ceiling was not done.
6	Construction and completion of MCA Ward Office at Kataboi in Lakezone Ward	11,958,900	-	4,087,910	4,087,910	70%	The contractor was not on site. Roofing, walling done. Plastering, fencing, windows & doors and ceiling not done.

No	Project Name	Contract Sum	Total Payments as at 30 June, 2018 Kshs.	Amount Paid in 2018/2019 Kshs.	Total Payment as at 30 June, 2019 Kshs.	Status	Observations
7	Construction and completion of MCA Ward Office at Song'ot Ward	11,853,089	-	1,248,500	1,248,500	90%	The contractor was not on site. Roofing, walling, plastering and ceiling are done. Fencing, windows and doors were not done
8	Construction of MCA Ward Office in Kalokol Ward	11,215,388	-	4,307,109	4,307,109	75%	The contractor was not on site. Roofing, walling, fencing and fitting of windows & doors done. Plastering and ceiling not done.
9	Construction and completion of MCA Ward Office in Township Ward	11,727,655	-	3,475,211	3,475,211	70%	The contractor was not on site. Roofing, walling and fitting of windows & doors done. Plastering and ceiling not done.
10	Construction and completion of MCA ward office at Township Kanamkemer	11,948,232	-	5,733,996	5,733,996	70%	The contractor was not on site. Roofing, walling done. Plastering, fencing, windows, doors and ceiling not done.
11	Construction and completion of MCA ward office in Nakalale Ward	11,206,718	-	2,851,876	2,851,876	70%	The contractor was not on site- Roofing, walling done and windows & doors fitted. Plastering, fencing and ceiling were not done.
12	Construction and completion of MCA Ward Office in Nanam Ward					50%	The contractor was not on site. Walling was done. Roofing, plastering, doors, windows,

No	Project Name	Contract Sum	Total Payments as at 30 June, 2018 Kshs.	Amount Paid in 2018/2019 Kshs.	Total Payment as at 30 June, 2019 Kshs.	Status	Observations
							fencing, ceiling done
13	Construction of County Assembly Office Annex-Treasury Building	72,854,312	26,000,000	39,570,881	65,570,881	70%	The contractor was not on site-Roofing, walling done. Plastering, windows, doors and ceiling not done.
14	Construction of Speaker's Residence	75,016,756	45,610,187	-	45,610,187	40%	The contractor was not on site-only walling is done
	Total	462,121,832	99,610,187	204,878,492	304,488,679		