

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF WEST POKOT FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of County Assembly of West Pokot as set out on pages 9 to 32, 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 summary 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 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, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, in all material respects, the financial position of the County Assembly of West Pokot 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 do not comply with the Public Finance Management Act, 2012 and the County Governments Act, 2012.

Basis for Adverse Opinion

1.0 Presentation of Annual Reports and Financial Statements

The annual reports and financial statements prepared and presented for audit had the following errors: -

- i. The statement of receipts and payments reflects an opening balance under 2017/18 total payments of Kshs.558,129,981 instead of Kshs.558,028,163 resulting to error of Kshs.101,818 which has been omitted in the statement.
- ii. Comparative figure of Kshs.470,000,000 under Note 1 to the financial statements is missing.
- iii. Note 3 to the financial statements reflects a figure of Kshs.117,184,727 whereas the statement of receipt bs reflects Kshs.108,530,360
- iv. The comparative figure for outstanding imprest per statement of financial assets and liabilities of Kshs.3,058,300 does not agree with Note 14 of the financial statements figure of Kshs.1,590,600 resulting to an unreconciled variance of Kshs.1,467,700.
- v. Progress on follow up on Auditor's recommendations arising from Auditor's report for the year ended 30 June, 2018 is missing.

- vi. Comparative figure of Kshs.183,267,938 for use of goods and services does not agree with audited financial statements figure of Kshs.181,800,238 resulting to unreconciled variance of Kshs.1,467,700.
- vii. The statement of cash flows reflects cash at the beginning of the year of Kshs.8,732,542 whereas the closing balance in 2017/18 was Kshs.4,529,923 and cash at the end of the year was Kshs.8,732,542 instead of Kshs.9,059,846 as per casted figure. The statement of financial assets and liabilities is misstated by the same balances.

Consequently, the accuracy, validity and completeness of the figures reflected in the financial statements the year ended 30 June, 2019 could not be confirmed.

2.0 Unsupported Cash and Cash Equivalentents

The statement of financial assets and liabilities reflects cash and cash equivalentents amount of Kshs.7,174,842 as disclosed under Note 14 to the financial statements. The amount comprises of a bank balance of Kshs.7,174,872 and a Nil cash in hand. However, no board of survey report was availed for audit verification as at 30 June, 2019 to verify the cash in hand. Further, the bank reconciliation provided for audit verification reflect a Nil cash book balance which resulted in an unexplained variance of Kshs.7,174,872.

Consequently, the accuracy and completeness of cash and cash equivalent balance of Kshs.7,174,842 reflected in the statement of financial assets and liabilities as at 30 June, 2019 could not be confirmed.

3.0 Unsupported Accounts Receivable – Outstanding Imprest Register

The statement of financial assets and liabilities reflects accounts receivables-outstanding imprests amount of Kshs.1,557,700 as disclosed under Note 14 to the financial statements. However, the supporting schedule for the outstanding imprest show that all the imprest was issued in the financial year ended 30 June, 2018 and had therefore taken more than one year to surrender. Management did not provide an imprest register to confirm recording of opening balance, amount taken during the year, date taken, date due or amount pending at the close of the year.

Consequently, the accuracy validity and recoverability of outstanding imprest balance of Kshs.1,557,700 reflected in the statement of financial assets and liabilities as at 30 June, 2019 could not be confirmed.

4.0 Unreconciled Variance

The statement of receipts and payments reflects total payments amount of Kshs.664,114,396 which is at variance with the Integrated Financial Management Information System (IFMIS) total payments figure of Kshs.671,571,045, resulting in a variance of Kshs.7,456,649 which has not been explained or reconciled.

Under the circumstance, the accuracy and completeness of the total payments figure of Kshs.664,114,396 for the year ended 30 June, 2019 could not be confirmed.

5.0 Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services figure of Kshs.222,370,911 as disclosed under Note 5 to the financial statements. The following observations were made: -

5.1 Unsupported Domestic Travel and Expenses

Included in the figure is domestic travel and subsistence payments of Kshs.12,503,700 made to Members of the County Assembly (MCAs) and County Assembly staff being subsistence allowance while in Mombasa, Kitale and Nairobi. However, the payment vouchers were not supported by attendance registers, work tickets, flight tickets, minutes of the deliberations and details of the venue and how it was identified. Management has not explained if the expenditure was a proper charge on public funds given that the meeting could have been conducted in the County Assembly chambers. In addition, the imprest was issued to officers who later paid the beneficiaries contrary to Section 91(2) of the Public Finance Management (County Governments) Regulations, 2015, which requires every payee to be issued with their own imprest.

5.2 Unsupported Foreign Travel and Expenses

The amount includes foreign travel and subsistence expenses of Kshs.19,701,300 made to twenty-eight (28) MCAs while attending conferences in Malaysia and Singapore by international training firms. However, Management did not provide supporting documentation on how the training firms were identified, need for the training, or a report on the training to the County Assembly. Further, it was established that the payments of Kshs.2,154,000 for conference fees was paid to two (2) local firms and not the overseas trainers.

5.3 Unsupported Routine Maintenance

The figure includes routine maintenance of vehicles and other transport equipment figure of Kshs.4,424,143 out of which a total of Kshs.2,406,496 payments were incurred on repairs and service of various motor vehicles. However, the payments were not supported with Local Service Orders (LSO), quotations, invoices and authorizations for service.

5.4 Unauthorized and Unsupported Other Operating Expenses

The amount includes other operating expenses of Kshs.7,461,899 out of which Kshs.1,000,000 was subscription payments to Society of Clerks-At-The-Table (SOCATT) in respect of financial year 2017/2018. However, no documentation in support of its formation, composition and operation was availed for audit verification. Further, the payment for Membership Fees, Dues and Subscriptions to Professional

and Trade Bodies for the year 2017/18 was not disclosed in the previous financial statements as a pending bill.

5.5 Unsupported Rentals of Produced Assets

The amount includes rentals of produced assets expenses of Kshs.2,040,000 being rent payments for leased Ward offices. However, the expenditure was not supported by procurement records such as lease agreements.

5.6 Unsupported Training Expense

The Amount includes training expenses of Kshs.10,026,230 out of which Kshs.5,005,000 payments were made to various hotels for hire of conference facilities. However, Management did not provide relevant supporting documents such as tender documents or quotations, tender opening, evaluation and award committee minutes.

Consequently, the accuracy, completeness and validity of use of goods and services of Kshs.222,370,911 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

6.0 Unsupported Transfers to Other Government Entities

The statements of receipts and payments reflects transfer to other government entities amount of Kshs.39,392,606 as disclosed under Note 7 to the financial statements. The amount includes Kshs.2,392,606 Transfers to National Government entities. However, supporting documents, basis of the transfer and the details of the National Government entities that received the money were not provided for audit verification. Further, there were Transfers to County Assembly entities amounts of Kshs.37,000,000 out of which an amount of Kshs.20,000,000 was traced to West Pokot County Assembly staff car loan and mortgage scheme while Kshs.17,000,000 was not supported.

Consequently, the accuracy, completeness and validity of transfer to other government entities of Kshs.39,392,606 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

7.0 Other Receipts

The Statements of receipts and payments reflects total receipts amount of Kshs.668,317,015 as disclosed under Note 3 to the financial Statements. The figure includes other receipts of Kshs.108,530,360 which relates to transfers from County Executive which could not be traced to the County Executive's financial statements. Consequently, the accuracy, completeness and validity of total receipts of Kshs.668,317,015 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

8.0 Budget Control and Performance

The statement of budget execution by programme and sub programme for the year ended 30 June, 2019 reflects actual amount on comparable basis of Kshs.553,180,404

which is at variance with the summary statement of budget and actual amounts figure of Kshs.664,114,396 by Kshs.110,933,992, which has not been explained or reconciled.

Under the circumstance, the accuracy and completeness of the statement of budget execution by programme and sub programme actual amount of Kshs.553,180,404 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 County Assembly of West Pokot 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 adverse 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE 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 public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Non Compliance with the One Third Basic Salary Rule

Review of the payroll for the months of July, 2018 to June, 2019 indicated that some members of staff earned net salaries less than a third of their basic pay. This was contrary to the requirement of the County Human Resource Manual 2013 and 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, 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.

Consequently, Management was in breach of the law.

2.0 Non Compliance with the One Third Staff Establishment Rule

Review of the personnel records revealed that the County Assembly had a total of ninety-six (96) employees out of which eighty-six (86) or 90% are from the dominant ethnic community. This is contrary to Section 65(1) (e) of the County Governments Act, 2012 on staff establishment which requires that in selecting employees the County Public Service Board should ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community.

Consequently, Management was in breach of the law.

3.0 Poor Provision of Internet Services

Management paid Kshs.1,200,000 to a telecommunications firm for internet subscription at a monthly fee of Kshs.98,600 for the first six month and Kshs.101,400 for the next six months. As reported in the previous year, the internet network within the County Assembly was weak and it could not be established whether the County Assembly was receiving value for money for the internet subscription payments. The amount was paid in two instalments as shown below;

	Date	Payee	Details	Amount Kshs.
397345	30/10/2018	Telkom Kenya	Payment for provision of internet services for the months of July, August and September, 2018	295,800.00
397345	18/02/2019	Telkom Kenya	Payment for provision of internet services for the second, third and fourth quarter	904,200.00
			Total	1,200,000.00

Consequently, it was difficult to confirm whether value for money on expenditure of Kshs.1,200,000 for the year ended 30 June, 2019 was realised.

4.0 Construction of County Assembly Restaurant and Car Park

As previously reported, Management entered into a contract for the construction of a restaurant and a car park on 3 January, 2014 a contract sum of Kshs.36,685,718. During the year 2014/2015 expenditure of Kshs.15,765,679 was incurred on the project. However, the payment vouchers in support of this payment were not submitted for audit verification.

Further, a physical verification of the project in November, 2019 revealed that the project has stalled and there was no budgetary provision in respect of the project during 2018/2019 financial year. Project records including payment vouchers, certificates of completion, status report of the project were not availed for audit verification.

Consequently, the value for money has not been realised in the construction of the restaurant and car park.

5.0 Delay in Construction of Modern Assembly Complex

Note 10 to the financial statements reflects acquisition of assets figure of Kshs.129,586,192 which includes an amount of Kshs.64,490,970.02 paid in respect of construction of modern assembly complex. As reported in the previous year, the contract was awarded to a company on 6 January, 2015 at a contract sum of Kshs.358,392,421 and was to take 36 months to be completed in February, 2018. As at 30 June, 2019 certificates raised certified the value of work as Kshs.290,125,246.84. The cumulative payments to the contractor as at 30 June, 2019 was Kshs.261,718,222.

However, according to the Clerk of Works report dated 12 April, 2019, the time had elapsed since the construction works had taken 215 weeks or 114% of the total contract period while the overall works was 76%. Management explained that the execution of the contract was suspended by the Governor of West Pokot through a letter dated 19 September, 2017 to facilitate a special audit of all contracts by the National Construction Authority. It could not be established whether the suspension complied with contract clause on termination of a contract which may expose the County to penalties for wrongful termination of the contract.

Consequently, the objectives of the Project have not been achieved and residents of West Pokot County may not have obtained value for money on the construction of the Assembly Complex as planned.

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 matter(s) described in the Basis for (Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, internal controls, risk management and governance were not effective.

Basis for Conclusion

1.0 Lack of Policies

It was noted that the County Assembly did not have in place business continuity plan, disaster recovery plan, backup policy or a backup site. It was also observed that password protocols were not adhered to. The Accounting Officer therefore, failed in instituting appropriate measures to ensure confidentiality of data and information, data integrity and business continuity.

2.0 Lack of an Audit Committee

The County Assembly operated without a duly established Audit Committee. This was contrary to Section 155(5) of the Public Finance Management Act, 2012 and Regulation 167 of Public Finance Management (County Governments) Regulations, 2015 which provides for the establishment of the Audit Committee for a County Government entity.

Consequently, in the absence of an Audit Committee, the existence of an effective system of governance could not be confirmed.

3.0 Weak Internal Audit Function

As previously reported, the internal audit unit has only one officer who reports to Management instead of an Audit Committee. This is contrary to Section 155(1) of the Public Finance Management Act, 2012 and Regulation 155(1) of Public Finance Management (County Governments) Regulations, 2015 which provides for independence of the Head of Internal Audit unit by reporting administratively to the Accounting Officer and functionally to the Audit Committee. Also, the Internal Audit operated without an Internal Audit Charter detailing scope, responsibilities and purpose of internal Audit.

Consequently, due to the weak in internal audit function, assurance on the effectiveness of internal control, risk management and governance may not be realised.

4.0 Lack of Risk Management Processes

It was noted that Management did not have a risk management policy, risk management framework or a risk register. Also, Management did not conduct risk assessment, Management was therefore unable to design measures for mitigation against risks.

As such, it was not possible to establish operations that were open to risk and to mitigate against the risks.

5.0 Lack of Fixed Assets Register

The statement of receipts and payments reflect acquisition of assets amounting to Kshs.178,085,387.. However, Management did not provide fixed assets register for audit review. 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 the Accounting Officer shall be responsible for maintaining a register of assets under his/her control or possession.

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 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 County Assembly's financial reporting process, reviewing the effectiveness of how Management 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 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 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

14 April, 2021