

# **REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF KAJIADO FOR THE YEAR ENDED 30 JUNE 2017**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of County Executive of Kajiado set out on pages 22 to 62, which comprise the statement of financial assets as at 30 June 2017, and the statement of receipts and payments, statement of cash flows and summary statements of appropriation-recurrent and 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 effects of the matter 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 Executive of Kajiado as at 30 June 2017, 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 County Government Act, 2012 and the Public Finance Management Act, 2012 .

In addition, as required by Article 229(6) of the Constitution, based on the audit procedures performed, I confirm that, except for the matter described in the Basis for Qualified Opinion and Other Matter sections of my report, nothing 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 Qualified Opinion**

#### **1. Local Revenue Collection**

The statement of receipts and payments for the year ended 30 June 2017 reflects receipts totalling Kshs.5,676,605,706 which include other revenues of Kshs.557,094,069 (2015/16 - Kshs.650,928,888) relating to County Government collections under local revenues. This is indicative of a 55% shortfall on the financial year's target of Kshs.1,248,371,716 and a 17 % decline in comparison with the other revenues collected in the previous year. Further, there were no revenue collection control sheets maintained for the period under review for reconciliation purposes and revenues banked were not tied to the receipt books issued and used through the revenue collection control sheets. In addition, revenues collected were not posted to the cashbooks. Consequently, the completeness and accuracy of the other revenues of Kshs.557,094,069 for the year ended 30 June 2017 cannot be confirmed.

## **2. Compensation of Employees**

The statement of receipts and payments reflects an expenditure of Kshs.1,809,228,189 under compensation of employees. During the year, a number of officers were issued with imprests totalling Kshs.6,098,500 for the purposes of casual wages payment. However, the casual workers were engaged without the involvement of the County Public Service Board contrary to Section 74 of the County Government Act, 2012 which mandates the County Public Service Board to regulate the engagement of persons on contract, volunteer and casual workers, staff of joint ventures and attachment of interns in its public bodies and offices. It is not clear how the casuals were sourced, engaged and distributed across the county without the involvement of the County Public Service Board as required by the law. Consequently, the validity and propriety of the expenditure of 6,098,500 cannot be ascertained.

## **3. Transfers to Other Government Units and Other Grants and Transfers**

The statement of receipts and payments reflects expenditure of Kshs.948,737,155 and Kshs.99,520,964 under transfer to other government units and other grants and transfers, respectively. In the period under review, the County executive operated a Car Loan and Mortgage Fund for which an amount of Kshs.40,000,000 had been transferred under transfer to other government units' expenditure item during 2015/2016 financial year. In addition, the other grants and transfers in 2016/2017 includes an amount of Kshs.60,000,000 relating to scholarship and other education benefits that was transferred to Kajiado County Bursary Fund.

However, no financial statements for the two funds were prepared and submitted for audit contrary to the requirement of Section 116 (7) (a) of the Public Finance Management Act 2012, which require the administrator of a county public fund to prepare accounts of the fund for each of the financial year. In the circumstances, the County Government was in breach of the law. Further, it has not been possible to confirm the accountability of Kshs. 100,000,000 transferred to the two funds as at 30 June 2017 in the absence of the respective financial statements.

## **4. Expenditure incurred without Authority to Incur Expenditure (AIE)**

During the year under review, expenditure amounting to Kshs.5,194,305,849 was incurred in various departments without the heads of those departments being issued with necessary Authority to Incur Expenditure (AIE). This is contrary to the requirements of regulation 24(2) of the Public Finance Management (County Government) Regulations 2015 which states that; an Accounting Officer who finds it necessary to authorize a public officer in another county government entity or a national government entity to incur official expenditure on his or her behalf, should do so by issuing an Authority to Incur Expenditure addressed to the Accounting Officer of the county government entity or national government entity. Further, regulation 51(a) provides that, no public officer shall spend or commit funds until he or she has been properly authorized by means of an Authority to Incur Expenditure (AIE). No satisfactory explanation has been provided for this omission.

## **5. Pending Accounts Payable**

Annex 1 to the financial statements reflects pending accounts payable amounting to Kshs.1,192,027,739, representing a 75% increase from the previous year's balance of Kshs.679,475,455. However, and as previously reported, the County Executive has not maintained an up-dated individual creditor's register/ledger with full details of the creditor's details of work done or service rendered, invoices, local purchase/service orders, certificates of completion, evidence of delivery and suppliers statements. Further the increase in the pending bills by Kshs.512,552,284 in the year under review has not been supported. In addition, had the bills been cleared in the period under review, the County Executive would have recorded an excess vote (deficit) of Kshs.709,727,882 instead of the surplus of Kshs.482,299,857 reflected in the statement of receipts and payments. In the circumstances, the accuracy and completeness of pending bills as disclosed in the financial statements and their effect on future service delivery of the County Executive cannot be confirmed.

## **6. Assets and Liabilities inherited from the Defunct Local Authorities in Kajiado County**

Disclosed in Annex 4 to the financial statements is a summary of fixed assets register showing that the County Government had non-current assets with a total historical cost of Kshs. 2,105,134,609 as of 30 June 2017. However, as mentioned in previous years' reports, the financial statements for the year ended 30 June 2017 similarly do not include assets amounting to Kshs. 91,605,348 acquired in the four (4) months period ending 30 June 2013 as well as assets and liabilities of undetermined values of the defunct local authorities and other devolved functions. The Transition Authority did not formally transfer the assets and liabilities of the defunct local authorities in Kajiado to the County Government of Kajiado. Therefore, the existence and carrying values of assets and liabilities that were inherited from the defunct local authorities have still not been established under the circumstances. Consequently, the completeness and accuracy of non-current currents including their historical costs as at 30 June 2017 as disclosed in annex 4 cannot be confirmed.

## **7. Contingent Liability**

The Contingent Liability is in reference to Court Case HCC Miscellaneous Application No. 442 of 2011 - Kilimanjaro Safari Club V/S County Government of Kajiado. Available information indicate that the former Olkejuado County Council had entered into a contract with the above Club to lease a structure belonging to the County Council on condition that the County Council was not to allow the construction of another competing club/hotel on a certain radius. However, the County Council breached the contract and allowed Oltukai Lodge to construct a modern hotel next to Kilimanjaro Safari Club. Consequently, Kilimanjaro Safari Club instituted a suit reference HCCC No. 182 of 2005 against Olkejuado County Council on 17 February 2005 to restrain the County Council from levying rent in

distress. This commenced a dispute that was referred to an arbitration way back in 2007.

In an award delivered on 5 November 2009 the arbitrator awarded the claimant approximately Kshs. 300,000,000.00 (Three hundred million) plus interest at 12%. On 10 January 2010 the arbitrator further awarded the claimant on assessment of costs an additional Kshs 7,259,399.00. On 13 December 2011 following an application in the High Court by Kilimanjaro Safari Club vide HCC MISC. APP. No. 442 of 2011, the arbitration award was adopted in the High Court as a judgement and the claimant was granted leave to enforce the award.

On 30 May 2013, the High Court allowed a notice of motion application dated 2nd March 2013 through which the County Council had filed an application to appeal the award as earlier ordered by the High Court and to stay execution pending determination of the application. The notice of motion application was allowed, however, on condition that the County Council shall within 45 days from the above date deposit one third of entire decretal sum due with costs or Kshs.105,000,000.00 whichever was higher in an interest earning account in the joint names of the parties' counsel. The amount was never deposited within 45 days as provided. The amount owing currently is approximately Kshs 670 Million and has, however, not been as a Contingent Liability in the financial statements of County Executive of Kajiado for the year ended 30 June 2017.

## **8. Unresolved Prior-year Audit Matters**

### **8.1. Compensation of Employees**

The statement of receipts and payments for the year ended 30 June 2016 reflected expenditure of Kshs.1,527,491,356 under compensation of employees, which included an amount of Kshs.1,200,000 paid to a project consultant under County partnership with Umea City in Sweden. The nature of the expenditure, however, did not qualify for classification as compensation of employees cost. No documentation has been provided so far to show how the consultant was identified. In the circumstances, the propriety of the expenditure of Kshs.1,200,000 can still not be ascertained.

### **8.2. Consultancy Services**

The statement of receipts and payments for the year ended 30 June 2016 also reflected expenditure of Kshs.1,630,274,525 under acquisition of assets. The expenditure included consultancy fees amounting to Kshs.8,119,081 paid to an architect for the provision of professional services for the construction of a modern County Library. Documents in support of payments to the consultant totalling Kshs.2,320,000 has not been made available for audit verification to date. In the circumstances, the propriety of the expenditure of Kshs. 2,320,000 has remained unascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Government of Kajiado 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 matter described in the Basis for Qualified Opinion and Other Matter sections of my report, there are no Key Audit Matters to report in the year under review.

## **Other Matter**

### **1. Stalled Projects**

#### **1.1. Construction of Modern Library-Kajiado Town**

The County Executive contracted a contractor, Tynen Limited, to construct a modern library in Kajiado town on 1 April 2016 for a period of 36 months at a contract price of Kshs. 119,989,444. The County Executive also engaged an architect, Abbey Architect, as a lead consultant for the project at an agreed contract price of 10% of the cost of the project which translate to Kshs.11,998,944.40. A site visit to the project on 16 November 2017 revealed that the project had stalled and no works were done in the financial year 2016/2017. Works certified as of 16 November 2017 relating to earlier period (2015/2016) was 41%.

Available records indicate that both the contractor and the lead consultant had been paid Kshs.52,375,225 and Kshs.12,666,085 respectively as at 30 June 2017. Further, payments made to the contractor of Kshs.52,375,225 were processed against certified amounts of Kshs.49,528,800 resulting in unexplained difference of Kshs.2,846,425. It has not been explained also why the management processed payments amounting to Kshs.12,666, 085 to the lead consultant against a contract sum of Kshs.11,998,944 without due regard to the project implementation status.

The Architect, through a letter dated 6 February 2017, resigned/ pulled out of the contract citing delayed payments by the County Government, faulty non-enforceable contract documents, lack of cooperation by contractor and manipulation of bills of quantities (BQs). On the other hand, the contractor through a letter dated 7 January 2017 complained of malicious sabotage and incompetence on the side of the lead consultant and delay in issue of certificates for payment and asked the County Secretary to intervene. The project Bill of Quantities(BQ) were not made available for audit review hence making it difficult to assess conformity of the contractor's work with the specifications of tender and the extent of manipulation of BQs, if any, as alleged by the lead consultant.

In the circumstances, it is not possible to confirm that there was value for money for the project and efficient use of resources given the notable delay in implementation, wrangles and the likely cost overruns that are likely to impact the project negatively thus affecting service delivery to the public.

## **1.2. Ngong Sports Complex**

The County Government of Kajiado contracted M/S York Investments (EA) Limited of Box 43997-00100, Nairobi to construct a Modern Sports Complex in Ngong Town for Kshs.198,464,940 under the department of Education, Youth, Sports Culture and social services. The project was scheduled to be undertaken in four phases for consecutive four financial years from 2014/2015 to 2017/2018 or 48 months from the date of the agreement. The agreement was signed on 6 July 2015 implying expected completion date of 5 July 2019. It therefore follows that at minimum, 25% of the project should be achieved every financial year for the four years under consideration. Consequently, the project ought to have been at 50% completion by 30 June 2017. However, records presented for audit review revealed that as at 21 June 2016, only Kshs.34,387,474 had been absorbed as per interim certificate No. 1 indicating 17% completion.

In the year under review, no works were carried out implying either the project had been abandoned or works had stalled with physical verification confirming the same. That notwithstanding, a payment of Kshs.3,000,000 was made to the architects, M/S Abbey Architects Limited, for consultancy services in respect of the project on 11 May 2017 despite the fact that no works had been carried out during the year. In addition, no fee notes, invoice, authority or any other documentary evidence has been presented for audit verification in support of this payment.

In the circumstances, I cannot confirm that the public got value for the total amount of Kshs.37,387,474 spent so far on the project. Further, there may be cost overruns in the event that the project is not delivered in time and other associated costs including interest and penalties, loss of value by delaying the accruing benefits to the tax payers and possible litigations arising from breach of contract.

## **1.3. Nalepo Primary School Access Road**

The County Government awarded a contract for grading and gravelling of Napelo Primary School access road in Olkeri ward on 16 March 2017 to M/S Sharrif Steel Paints and Hardware at a contract sum of Kshs. 1,995,960. The contract was for a period of 90 days effective from the date of signing the contract agreement. An amount of Kshs. 611,784 was paid to the Contractor on 28 June 2017 being the value of certified works as per interim certificate No. 1 of 22 June 2017. However, the contract period expired on 16 June 2017 when the Contractor had only implemented 31% of the contract works. No evidence has been provided for audit to confirm that the Contractor requested for extension of the contract period as required under section 139 (2a) of Public Procurement and Assets Disposal Act, of 2015. Consequently, it is not possible to confirm that there was efficient use of

resources and benefit accruing to the tax payers in the implementation of this project.

#### 1.4. Kajiado County Referral Hospital Maternity Wing

The County Executive contracted M/S Central Works Ltd of P.O. Box 16476 – 00100, Nairobi to construct maternity wing and ward at Kajiado County Referral Hospital at an initial contract sum of Kshs. 53,729,145 through contract agreement dated 24 April 2015 following a Tender No. CGK/MOH/CWS/O8/2014-15. The initial contract sum was subsequently varied by Kshs. 13,188,838 on 26 April 2017, which is 24.5% of the contract sum, exceeding the 20% ceiling authorized under section 139(4)(c) of Public Procurement and Asset Disposal Act, of 2015. Further, the variation included an amount of Kshs. 4,197,736 for building, re-alignment and modifications of the project as a result of the technical department designing, without involvement of the user department as indicated in a letter reference KCG/HEALTH SERVICES/20/VOL3/222 of 13 February 2017. Consequently, it is not possible to confirm that there was efficient use of resources and benefits accruing to the tax payers in the implementation of this project.

## 2. Budget and Budgetary Performance

The County Government collected local revenue amounting to Kshs.557,094,069 against a budget of Kshs. 1,248,371,716 for the year ended 30 June 2017. This represents 45% of the estimated local revenue leading to a deficit of Kshs.691,277,647 or 55%. Further, the summary statements of appropriation (development and recurrent combined) show a total expenditure budget of Kshs.7,010,377,716 against total budgeted receipts of Kshs.6,290,377,716 resulting in a budget deficit of Kshs.720,000,000.

The Offices of the Governor and Deputy Governor had a total recurrent budget of Kshs.166,708,973. However, analysis of the vote book indicates that the two Offices incurred a total actual expenditure of Kshs.168,185,990 excluding commitments hence surpassing the budget by Kshs.1,477,017 or 1%. Further, although the County received 89% of the total budgeted revenue, the budget implementation in most departments was below 80% as shown below:

	Department	2016-2017 Budget (a)	2016-2017 Actual (b)	Variance ( Budget- Actual) C= a-b	% variance d=c/a
1	Office Of The Governor And The Deputy Governor	166,708,973	161,428,284	5,280,689	3%
2	County Public Service Board	78,042,231	71,768,230	6,274,001	8%
3	Education, Youth, Sports, And Culture	788,148,407	442,883,715	345,264,692	44%

4	Health Services	1,865,240,167	1,509,960,140	355,280,027	19%
5	ICT, Gender And Social Services	183,138,952	73,839,466	109,299,486	60%
6	Agriculture, Livestock And Fisheries	307,518,950	246,863,205	60,655,745	20%
7	Water And Irrigation	502,470,372	241,674,490	260,795,882	52%
8	Public Works, Roads, Energy And Transport	881,081,620	501,936,164	379,145,456	43%
9	Finance And Economic Planning	529,835,793	377,585,673	152,250,120	29%
10	Industrialization And Enterprise Development	286,652,710	215,799,306	70,853,404	25%
11	Lands, Physical Planning, Environment, Wildlife And Natural Resources	301,733,748	243,550,892	58,182,856	19%
12	County Assembly	681,395,477	534,874,387	146,521,090	22%
13	Public Service, Administration And Citizen Participation	438,410,318	325,557,615	112,852,703	26%

### 3. Projects Budgeted and Implemented without Public Participation

During the year under review, evaluation of internal controls on budget process and identification of projects, and other records produced for audit review, revealed that a total of twenty-eight sampled flagship projects with a budget of Kshs.239,200,000 were conceived and started without going through the full cycle of budget process including public participation, sectoral working groups forums, and validation. This was done contrary to provisions of regulation 221(5) of the Public Finance Management (County Governments) Regulations, 2015 which provides that, the County Treasuries shall arrange for effective public participation during the development of their annual budget estimates including the publication of citizens' budgets which shall explain and summarize the budget proposals. In the circumstances, it is not possible to ascertain that there was proper involvement of the public in identification of the projects to ensure transparency and accountability.

### 4. IT Controls



A review of the County's IT controls revealed that the IT department lacks the basic controls that enable the department to function effectively. This is largely caused by insufficient allocation of resources both financial and human to the department thus rendering it either disabled or unable to meet the mandate for which it was established. The following significant weaknesses have been noted:

- (i) No IT strategy committee.
- (ii) No IT steering committee.
- (iii) No training program in place to build IT capacity.
- (iv) No approved IT security policy.
- (v) No policies in place which cover physical access to IT environments.
- (vi) No Approved disaster recovery plan.
- (vii) No Approved backup and retention strategy.
- (viii) No Formal approved user account management policy.
- (ix) Insufficient fire extinguishers and fire suppression systems in the computer rooms.
- (x) No formal, documented and tested emergency procedure in place.
- (xi) Not all the computers have anti-virus installed.

The County risks non-adherence to regulation 110(1) of the Public Finance Management Act (County Government) Regulations, 2015 which requires an Accounting Officer for a county government to institute appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business continuity.

### **Responsibilities of Management and Those Charged with Governance for the Financial Statements**

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 such 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.

In preparing the financial statements, management is responsible for assessing the County's ability to 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's 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.

Those charged with governance are responsible for overseeing the County's financial reporting process.

### **Auditor-General's Responsibilities for the Audit of the Financial Statements**

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.

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

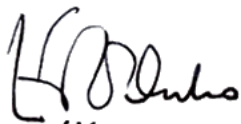
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting 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.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for the purpose of giving an assurance on the effectiveness of the County's 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's ability 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's to cease 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's 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**

**16 July 2018**