

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF KISII FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Kisii set out on pages 6 to 65, which comprise the statement of financial assets and liabilities as at 30 June 2018, and the statement of receipts and payments, statement of cash flows and summary statements of appropriation-recurrent, development and 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 effects 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 Kisii County Executive as at 30 June, 2018 and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Under Banking of Revenue

The statement of receipts and payments for the year ended 30 June ,2018 reflects county own generated receipts of Kshs.507,593,030 out of which an amount of Kshs.252,359,854 only was banked in the County Revenue Fund (CRF) account, leaving a balance of Kshs.255,233,176 which appear to have been spent at source.

Consequently, the accuracy and completeness of the county own generated receipts could not be confirmed.

2. Cash and Cash Equivalents

- i. The statement of assets and liabilities as at 30 June,2028 reflects bank balances of Kshs.1,857,942,107 and as disclosed in Note 21A to the financial statements. However, the recurrent account and development account cash books were reflecting credit balances of Kshs.5,910,857,951.35 and Kshs.1,663,219,318.90, respectively on that date. No satisfactory explanation was provided for this anomaly.

- ii. The variances between the cash book balances and the balances reflected in financial statements for the two above accounts were not reconciled.
- iii. Maternal healthcare account, fuel levy account and national agricultural and rural inclusive growth project account cash books were not maintained.

Consequently, the accuracy and completeness of the bank balances of Kshs.1,857,942,107 could not be confirmed.

3. Prior Year Adjustments

The statement of assets and liabilities as at 30 June,2018 reflects a prior year adjustments of Kshs.422,937,101. This figure is made up of unrepresented cheques as at 30 June 2017. The payments relating to the unrepresented cheques were also included in the year 2016/2017. Consequently, the validity and accuracy of the prior year adjustments could not be confirmed.

4. Pending Accounts` Payables (Bills)

Disclosed in Annex 2 to the financial statements are pending accounts payables totalling Kshs.1,264,907,554 which were outstanding as at 30 June,2018. However, contract documents; local purchase/service orders; invoices; and schedules detailing the names of the contractors/suppliers, purchase/service order numbers, invoice numbers and description of goods, services or works were not provided for audit review. As a result, the validity, completeness and accuracy of the pending accounts payables totalling Kshs.1,264,907,554 could not be ascertained.

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

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. Except for the matters described in the Basis for Qualified Opinion and Basis for Conclusions on Lawfulness and Effectiveness in Use of Public Resources and Effectiveness of Internal Controls, Risk Management and Governance sections, I have determined that there are no key audit matters to communicate in my report.

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 Qualified Opinion and Basis for Conclusions on Lawfulness and Effectiveness in Use of Public Resources and 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 public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Reservation of Budget to Youths and the Disadvantaged

- i. Out of the total procurement budget of Kshs. 844,596,453.57, an amount of Kshs.227,223,802 or approximately 26.9% was reserved for the youth, women and persons with disabilities. This is contrary to Section 157 (5) of the Public Procurement and Asset Disposal Act, 2015 that requires reservation of not be less than thirty per cent (30%) of procurement budget to the disadvantaged group and Section 158 that requires integration of preferences and reservations in the procurement plans.
- ii. Comparison of the List of Enterprises Registered to Benefit from Public Procurement and Disposal Preference and Reservations as at 17 October 2018 and the payment records maintained by the county treasury revealed that, only Kshs.72,203,154.60 was paid to suppliers registered under Preference and Reservations Group.

The disadvantaged groups were, therefore, deprived of their statutory entitlement in public procurement and denied economic empowerment.

2. Supply, Installation and Commissioning of Solar Street Lights

The County Executive awarded a contract to a firm for supply, installation and commissioning of 1000 (one thousand) solar street lights at a contract sum of Kshs.345,980,000 for a period of three financial years 2017/2018, 2018/2019 and 2019/2020. The following were noted:

- i. The tender was advertised on one newspaper on 5 February 2018. The advertisement was later placed on the County Government's website on 8 February 2018 which was two (2) days after the mandatory pre-tender site visit on 6 February 2018.
- ii. A notification of award of the contract to the firm was done on 1 March 2018, fifteen (15) days before approval of the tender evaluation report and the professional opinion on 16 March 2018. However, the contract was entered between the two parties on 8 March 2018, eight (8) days before the approval of the tender evaluation and professional opinion on 16 March 2018 and

before lapse of the mandatory fourteen (14) days from the date of tender award notification.

- iii. Though, a performance bond from an insurance firm was expressly stated as unacceptable, the County Executive received and accepted from the firm contracted a performance bond issued by an insurance firm.
- iv. The tender award was not publicized on the notice boards and the website as required.
- v. The contractor had not been paid as of 30 June 2018.

Consequently, the regularity and value for money may not have been achieved.

3. Upgrading of Kisii Main Stage -Getare Road to Bitumen Standards

A firm was awarded a contract to upgrade Kisii Main Stage -Getare Road to bitumen standards at a contract sum of Kshs.39,819,610 on 14 March 2018. The following were noted:

- i. The contract documents did not specify the contract period though it was verbally explained that the works were to be done within six (6) months.
- ii. Physical verification done on 18 October 2018, that is one (1) month after the expected completion date, revealed that, works were done up to sub-base. Bituminous surface treatments, asphalt concrete application and road furniture of approximate value of Kshs.23,590,800 or 60% of the contract sum had not been done. In addition, due to lack of drainage works, which were provided for in section 8 (801) under special specifications of the tender document but not included in the bill of quantities, the road was partly washed away by storm water. The contractor was not on site even though no payment had so far been made.
- iii. Though it was explained that the procurement process for drainage works was underway, the date on which the project will be completed was not stated.

4. Procurement Through Restricted Tendering

The County Executive procured goods through restricted tendering even though advertisements were not placed on the procuring entity website regarding the intention to procure through limited tender as required under Section 102 of Public Procurement and Asset Disposal Act, 2015. The Management awarded the following contracts through restricted tendering as opposed to competitive tendering:

- i. A contract for supply of fingerlings, tilapia, catfish and female tilapia to a supplier at a contract sum Kshs.6,451,480.
- ii. A contract for supply of drugs, vaccines, semen equipment to a supplier at a contract sum Kshs.5,955,000.
- iii. A contract for supply of dog catchers and inspection kits to supplier at a contract sum Kshs.4,512,000.
- iv. A contract for supply and delivery of liquid nitrogen to a supplier at a contract sum Kshs.4,470,525.
- v. A contract for supply and delivery of banana seedlings to supplier at a contract sum Kshs.3,803,360

In view of the fact that the above goods were not procured competitively, value for money obtained could not be confirmed.

5. Budget Performance Analysis

Included in the original and final programme based budgets were activities amounting to Kshs.1,663,145,388 and Kshs.626,910,080, respectively. However, the line items under which these activities were charged were not indicated. Further, the Integrated Financial Management Information System (IFMIS) budget was not provided for audit review.

5.1. Citizens' Budget

- i. The County Treasury prepared a programme based budget that majorly contained aggregated amounts for various activities/ projects. The specific projects/activities and their cost estimates were not disclosed. The budget proposals from which the budget was derived were not presented for audit.
- ii. No feedback on the outcome of the public participation activities as required by paragraph 67 of County Public Participation Guidelines, 2016 was made to the public.
- iii. The proposed sector ceilings for the next three financial years were contained in County Budget contrary to regulation 30 (4) of The Public Finance Management (County Governments) Regulations, 2015.
- iv. The County Fiscal Strategy Paper 2018 that was not approved by the county assembly was published in January 2018 but was not publicized via website.

5.2. Budget Allocation Ceilings

The supplementary budget estimates for various votes did not adhere to the budget ceiling as some budget items were below or above the one percent (1%) variance over the ceilings set in the County Fiscal Strategy Paper (CFSP) contrary to regulation 37(1) of the Public Finance Management (County Governments) Regulations, 2015 as shown below:

| Department | CFSP 2018 Kshs | 2017/2018 Budget Kshs | Variance (Ceiling-Budget) Kshs | %Age Variance Kshs |
|-----------------------------------------------------------------|-------------------|-----------------------------|--------------------------------------|--------------------------|
| County Executive | 467,000,000.00 | 479,169,259.00 | 12,169,259.00 | 2.61% |
| Finance and Economic Planning | 1,500,000,000.00 | 1,473,658,948.00 | (26,341,052.00) | -1.76% |
| Agriculture, Livestock , Fisheries and Co-operative development | 655,000,000.00 | 645,743,391.00 | (9,256,609.00) | -1.41% |
| Energy, Water, Environment and Resources | 450,000,000.00 | 324,040,191.00 | (125,959,809.00) | -27.99% |
| Education, Labor and Manpower | 729,000,000.00 | 653,814,848.00 | (75,185,152.00) | -10.31% |
| Health Services | 3,420,000,000.00 | 3,332,863,968.00 | (87,136,032.00) | -2.55% |
| Lands, Housing, Physical Planning and Urban development | 323,000,000.00 | 298,520,099.00 | (24,479,901.00) | -7.58% |
| Department of Trade Development and Regulations | 189,000,000.00 | 156,396,260.00 | (32,603,740.00) | -17.25% |
| Culture, Sport, Youth and Social Services | 227,000,000.00 | 249,772,171.00 | 22,772,171.00 | 10.03% |
| Kisii Town | 362,000,000.00 | 339,746,465.00 | (22,253,535.00) | -6.15% |

The fiscal responsibility principles, or the financial objectives were therefore not adhered to by the County Executive.

5.2.2 The Procurement Plan

- i. The annual procurement plan for the financial year 2017/2018 did not specify the works, goods and services to be procured and the timelines within which procurement was to be done as required by Section 21(1) of the Public Procurement and Disposal Regulations, 2006.
- ii. During the year under review, it was noted that development procurement plan amount exceeded the budgeted amounts. Further, items that were not in the budget were included in the procurement plan.

5.2.2.1. Department of Roads, Public Works and Transport

The total development budget for the Department of Roads, Public Works and Transport was Kshs.1,057,309,283 whereas the total estimated cost for items included in the procurement plan and charged under the development account was Kshs.1,250,358,940. The procurement plan therefore contained goods, services or works with estimated cost of Kshs.193,049,657 that were not budgeted for.

Included in the procurement plan was an item, "Wireless Access Point Corporate" with an estimated cost of Kshs.465,000,000 charged under construction of roads line item which was not in the budget.

5.2.2.2. Department of Land, Physical Planning and Urban Development

The total development budget for the department of land, physical planning and urban development was Kshs.218,475,387 whereas the total estimated cost for items included in the procurement plan and charged under development account was Kshs.292,357,453. The procurement plan therefore contained goods, services or works with an estimated cost of Kshs.65,840,347 that were not budgeted for.

5.2.2.3. County Administration

The total development budget for the County Administration was Kshs.109,031,961 whereas the total estimated cost for items included in the procurement plan and charged under development account was Kshs.174,000,000. The procurement plan therefore contained goods, services or works with an estimated cost of Kshs.64,968,039 that were not budgeted for.

5.2.2.4. Department of Culture and Social Services

The total development budget for the Department of Culture and Social Services was Kshs.154,193,323 whereas the total estimated cost for items included in the procurement plan and charged under development account was Kshs.217,593,323. The procurement plan therefore contained goods, services or works with estimated cost of Kshs.63,400,000 that were not budgeted for.

5.2.2.5. Department of Education, Labour, Manpower Development and ICT

The total development budget for the Department of Education, Labour, Manpower Development and ICT was Kshs.151,697,500 whereas the total estimated cost for items included in the procurement plan and charged under development account was Kshs.189,297,500. The procurement plan therefore contained goods, services or works with an estimated cost of Kshs.37,600,000 that were not budgeted for.

5.2.2.6. Department of Finance and economic planning.

The total development budget for the Department was Kshs.115,617,690 whereas the total estimated cost for items included in the procurement plan and charged under development account was Kshs.185,617,690. The procurement plan therefore contained goods, services or works with an estimated cost of Kshs.70,000,000 that were not budgeted for.

5.2.2.7. Kisii Town

The total development budget for the Kisii Town was Kshs.237,965,050 whereas the total estimated cost for items included in the procurement plan and charged under development account was Kshs.278,465,050. The procurement plan therefore contained goods, services or works with estimated cost of Kshs.40,500,000.00 that were not budgeted for.

5.2.2.8. Department of Trade Development and Regulations

The total development for the Department of Trade Development and Regulations was Kshs.88,423,697 whereas the total estimated cost for items included in the procurement plan and charged under development account was Kshs.153,200,000. The procurement plan therefore contained goods, services or works with estimated cost of Kshs.64,776,303.00 that were not budgeted for.

5.2.2.9. Department of Energy, Water, Environment & Natural Resources

The total development for the Department of Energy, Water, Environment & Natural Resources was Kshs.169,301,162 whereas the total estimated cost for items included in the procurement plan and charged under development account was Kshs.198,651,832. The procurement plan therefore contained goods, services or works with an estimated cost of Kshs.29,350,670 that were not budgeted for.

6. Public Participation

The County Executive incurred an expenditure of Kshs.12,607,500.00 on public participation on diverse dates. However, no feedback on the outcome of the public participation activities was made to the public for their input.

7. Budgeted Revenue and Other Receipts

- i. The plot register indicated that out of Kshs.16,275,421 rent collectable from 2,707 properties, an amount of Kshs.8,679,112 only was collected leaving a balance of Kshs.9,461,711 uncollected.
- ii. The County Executive had estimated to collect a sum of Kshs.9,000,000 in form of coffee and tea cess in the financial year 2017/2018. However, no revenue was collected under this source despite the fact that tea and coffee farming were major economic activities in the County.

- iii. The single business register indicated that out of collectable fee of Kshs.68,374,750, an amount of Kshs.58,494,781 only was collected leaving a balance of Kshs.9,897,969 unrealized.
- iv. The land register in LAIFOMS indicated arrears in property rates amounting to Kshs.112,485,597 as at 30 June ,2018. This amount decreased from Kshs.278,691,498 reported in the financial year 2016/2017 by Kshs.166,205,901 though Kshs.2,229,375 only was collected and reported in the financial statements for 2017/2018. It was not clear how the property arrears reduced as per the property register by such a huge margin which did not translate into revenue collections.

8. Compensation of Employees

The financial statements for the year ended 30 June ,2018 reflects compensation of employees' expenditure of Kshs.4,206,611,387, an increase by Kshs.504,279,798 or 14% from the previous year's figure of Kshs.3,702,331,589. The compensation of employees cost of Kshs. 4,206,614,387 accounted for 47% of the total county receipts of Kshs.8,995,717,758, which is above the 35% limit provided for under the law. The increase in wage bill may affect implementation of development projects.

In addition, the county executive committee member for finance has not drafted regulations setting a limit on the county government expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Public Finance Management Act,2012 for approval by the county assembly. Consequently, the management was in breach of the law.

9. Human Resource Plan and Staff Establishment

The County Public Service Board did not have a human capital plan and approved staff establishment in place as required under regulation 119(2) of the Public Finance Management (County Government) Regulations, 2015.

10. Ethnic Composition

The Kisii County Public Services Board recruited 378 out 385 (98%) from the dominant Kisii Community. This is contrary to the provisions of Section 65 (1)(e) of County Government Act requires that, in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county .The board was therefore in breach of the law.

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 Qualified Opinion and Basis for Conclusions on Lawfulness and Effectiveness in Use of Public Resources and 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 governance were not effective.

Basis for Conclusion

1. Imprests Management

- i. According to the imprests register, the total imprests applied for during the financial 2017/2018 amounted to Kshs.557,044,378. However, the cash paid into the county executive employees' bank accounts according to the recurrent bank account statement was Kshs.711,644,758.10 resulting in unexplained variance of Kshs.154,600.380.10. This is an indication of lack of effective controls in the management of imprests.
- ii. Payments vouchers in support of the imprests surrenders revealed that some officers applied for imprests on behalf of the others and who were in turn paid through schedules. However, it was not explained why officers, who had been created in IFMIS were not directly issued with imprests but rather through certain officers. Consequently, it was not possible to ascertain the authenticity of the signatures fixed against the names of the employees in the schedules since specimen signatures for all the payees were not presented for audit.

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 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, risk management and governance.

In preparing the financial statements, management is responsible for assessing the ability of The County Executive 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 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 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 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 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 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.

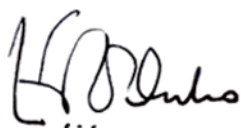
As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- 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 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 ability of the County Executive 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 Executive to cease sustaining 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 Executive to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

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

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



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

Nairobi

18 January 2019