

# **REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF KISII FOR THE YEAR ENDED 30 JUNE, 2019**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of County Executive of Kisii set out on pages 1 to 62, which comprise the statement of assets and liabilities as at 30 June, 2019, statement of receipts and payments, statement of cash flows and the summary statement of appropriation: 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 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 Kisii 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 County Governments Act, 2012 and the Public Finance Management Act, 2012.

### **Basis for Qualified Opinion**

#### **1. Presentation and Disclosure of the Financial Statements**

The financial statements did not include all information as required in the format prescribed by the Public Sector Accounting Standards Board (PSASB) in accordance with Section 194(1)(d) of the Public Finance Management Act, 2012. In particular, the financial statements did not make full disclosure with regards to the non-financial information such as detailed key entity information, leadership of the County, key Management staff among others.

Consequently, the financial statements for the year ended 30 June, 2019 do not conform to the presentation format prescribed by the PSASB.

#### **2. Inaccuracy of the Statement of Receipts and Payments**

As disclosed under Note 12 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.2,245,115,131 under use of goods and services. However, the balance includes an imprest of Kshs.572,590 issued to an officer but the expenditure was not supported by adequate surrender documents.

Further, an amount of Kshs.422,828,648 incurred on development projects for Kisii Teaching and Referral Hospital and other health facilities in respect of acquisition of assets - construction of buildings and civil works and purchase of specialized plant, machinery and equipment was wrongly classified under operating expenses.

Consequently, the accuracy of the above balance reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

### 3. Unsupported Pending Accounts Payables

As disclosed in Note 2.3 - Other important disclosures and under Annex 1 to the financial statements, the County Executive had pending accounts payables totalling Kshs.1,076,394,255 (2019: Kshs.1,264,907,554) which were not settled during the year under review but were carried forward to 2019/2020 financial year. The bills include bills amounting to Kshs.178,094,012 in respect of roads projects which were not supported by adequate relevant documentation such as contract agreements, invoices/payment certificates and certificates of completion.

Further, bills totalling Kshs.119,261,543 were due at the closure of the financial year 2017/2018 in the Department of Roads and Public Works, Department of County Administration and Stakeholders Management, Department of Trade and Tourism and Kisii Municipality, which were not factored in the financial year 2018/2019 but no evidence was availed that they were discharged as a first charge during the year under review

However, Management has not explained why the bills were not settled during the year in which they occurred.

Failure to settle bills during the year to which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

### 4. Unsupported Summary Statement of Appropriations

A review of the summary statement of appropriation: recurrent and development combined reflects the following balances which were not supported with schedules as tabulated below:

<b>Details</b>	<b>Amounts (Kshs)</b>
<b>Recurrent Appropriation</b>	
Use of Goods and Services	2,245,115,131
Other Grants and Transfers	566,718,455
Acquisition of Assets	78,356,046
<b>Development Appropriation</b>	
Use of Goods and Services	801,465,632
Acquisition of Assets	1,394,216,709

Consequently, the accuracy and completeness of the summary statement of appropriation could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Kisii 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. There were no key audit matters to report in the year under review.

### **Other Matter**

#### **Budget Control and Performance**

The statement of summary statement of appropriation – recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.11,876,515,616 and Kshs.9,489,974,981 respectively resulting to an under-funding of Kshs.2,386,540,633 or 21% of the budget. Similarly, the County Executive expended Kshs.9,895,784,029 against an approved budget of Kshs.11,876,515,616 resulting to an under-expenditure of Kshs.1,980,731,587 or 17% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the citizens of Kisii County Executive.

Further, a comparison of the IFMIS Budget amounts against line items of the county own-generated receipts revealed the following anomalies:

- i. According to the summary statements of appropriation, the budgeted revenue was Kshs.950,000,000 while the actual collection was Kshs.489,080,174. However, no disclosure was made to explain the reason for the material difference amounting to Kshs.460,919,826 between the budgeted revenue and actual amount.
- ii. The single business register indicates that out of collectable fees of Kshs.90,907,749, an amount of Kshs.77,633,549 was collected leaving a balance of Kshs.13,274,200 unrealized. No satisfactory explanation was provided for the under-collection.
- iii. The land register shows arrears of property rates amounting to Kshs.361,713,926 as at 30 June, 2019. The arrears increased from Kshs.300,949,547 reported in the financial year 2017/2018 by Kshs.60,764,379 out of which Kshs.8,539,852 only was collected in the financial year 2018/2019. No satisfactory explanation was provided for the high increase in arrears as per the property register without a corresponding increase in revenue collections.
- iv. Forty-four (44) revenue streams were approved under the Kisii County Finance Act, 2018 and included in the financial year 2018/2019 approved budget. However, examination of revenue reports revealed that no revenue was realized

in twenty-one revenue streams with a total budget of Kshs.112,350,000. No satisfactory explanation was provided for the nil receipts.

### **Prior Year Matters**

In the audit report of the previous year, several issues were raised under the Report on Financial Statements. Although the Management has indicated that the issues have been responded to, the matters remained unresolved as the Senate had not deliberated on them.

## **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. Delayed Upgrading of Main Stage – Getare Road**

Management awarded a contract for the routine maintenance of Kisii main stage – Getare road to bitumen standards at a contract sum of Kshs.49,528,694 on 14 March, 2018 and contract period was six (6) months. However, the Management varied the contract sum from Kshs.39,819,610 to Kshs.49,528,694, a variation of 24.38% before the lapse of twelve (12) months from the date of signing the contract contrary to the provisions of section 139(4) of Public Procurement and Asset Disposal Act, 2015. In addition, physical verification done on 25 September, 2019 revealed the road was only 75% complete and the contractor had abandoned the site.

Consequently, the value for the money of the contract for the revised contract sum of Kshs.49,528,694 could not be confirmed.

#### **2. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015**

Management awarded a contract for construction of box culverts at Kanyimbo, Oasis and Mochengo at a contract sum of Kshs.22,626,360 out of which an amount of Kshs.22,524,996 had been paid as at 30 June, 2019. The Management allowed for variation of completion period from three (3) months to six (6) months. However, no documents were availed for audit review to support the variations. The variation of the contract period was done before the lapse of twelve months from the date of signing the contract contrary to the provisions of Section 139(4) of the Public Procurement and Asset Disposal Act, 2015.

Consequently, Management is in breach of the law.

### 3. Delay in Repair and Maintenance of Road

During the year under review, the Management awarded a contract for the repair and maintenance of Eberege-Mugumo-Nyagancha Road for a sum of Kshs.3,827,198 out of which an amount of Kshs.2,912,946 had been paid as at 30 June, 2019. The contract agreement was signed on 25 February, 2019 with the commencement date of 4 March, 2019 and the expected completion period of three (3) months after signing of the contract agreement. However, physical verification conducted on 29 September, 2019 revealed that the culverts construction had not been done and the project was behind schedule by four (4) months.

Consequently, the value for money of the contract sum of Kshs.3,827,198 could not be confirmed.

### 4. Stalled Projects

Examination of records and physical verification of nine (9) sampled projects with a total contract sum of Kshs.35,206,317 revealed that the projects were not complete as per the stipulated time and contractors were not on site as detailed below.

No.	Project	Contract Value (Kshs)	Amount Paid (Kshs)	Expected Completion Date	% Completion
1	Keumbu ward offices	4,961,980	4,023,723	21 November, 2016	60
2	Sengera Bosoti ward offices	4,814,707	4,327,613	6 July, 2016	65
3	Nyatieko ward offices	4,853,440	4,853,440	24 August, 2018	75
4	Machoge Bassi ward offices	4,850,400	4,507,347	29 December, 2016	85
5	Bonchari youth polytechnic hostel	3,838,350	490,698	15 November, 2018	60
6	Keumbu youth polytechnic hostel	3,305,440	998,760	15 November, 2018	40
7	Kenya youth polytechnic hostel	3,298,950	486,098	15 November, 2018	40
8	Genga youth polytechnic hostel	3,372,550	972,196	15 November, 2018	40
9	ECDE Classrooms at Giosana and Chironge Bassi Bogetaorio	1,910,500	-	24 February, 2016	0
	<b>Total</b>	<b>35,206,317</b>	<b>20,659,875</b>		

However, Management did not provide satisfactory explanations for failure to complete the projects and the measures put in place on how the projects would be completed. This is contrary to the values and principles of public service as provided for under Article 232 (1c) of the Constitution which requires responsive, prompt, effective, impartial and equitable provision of services.

In the circumstances, the citizens have not received the services as planned.

### 5. Market Sheds Not Operational

During the year under review, the Department for Trade paid Kshs.11,985,301 for the construction of market sheds in various market centres. However, physical verification of the market sheds conducted during the month of October, 2019 revealed that the market sheds, though paid for fully, had not been put to use as detailed below.

No.	Market Shed	Contract Value Kshs.	Status
1	Sengera Market	2,575,392	Complete but not in use
2	Gesieka Market	2,494,178	Complete but not in use
3	Nyanturago Market	2,226,725	Complete but not in use
4	Raganga Market	2,558,538	Complete but not in use
5	Matongo Market	2,130,468	60% complete but not in use
	<b>Total</b>	<b>11,985,301</b>	

Management explained that the delay in operation was due to non-approval of the Market Management Regulations by the County Assembly of Kisii to operationalize the County Trade and Market Act, 2015. This is contrary to the values and principles of public service as provided for under Article 232 (1c) of the Constitution which requires responsive, prompt, effective, impartial and equitable provision of services.

In the circumstances, the public have not received value for money spent on the market sheds.

## 6. Failure to Fully Execute Contract Supply and Installation of Greenhouses

On 21 March, 2016, the Management had awarded a contract for the supply and installation of fifty five (55) complete greenhouses at a contract sum of Kshs.16,290,000. Thirty eight (38) green houses and chemicals were delivered on 8 June, 2016 and stored at the Kisii County Agricultural Training Center from where they were issued to the beneficiaries. However, seventeen (17) green houses were not delivered to the project as per the terms of the contract. Further, an amount of Kshs.11,254,909 was paid for the thirty-eight (38) greenhouses delivered and Kshs.428,413 was paid for training of the beneficiaries, without installation and commissioning of the same as provided for in the contract agreement.

Further, physical verification of the greenhouses conducted on 2 October, 2019 revealed that three (3) greenhouses were not functional as detailed below.

Beneficiary	Status
Kegati Primary School	Not fully installed. Drip lines were not in place. An interview with the beneficiaries revealed that the greenhouses were installed by residents and no training was conducted.

Nyanko Primary School	Tank was removed because it could not hold water after having been poorly installed. An interview with the beneficiaries revealed that the greenhouses were installed by the residents and no training was conducted.
St. Peters Soko Primary School	Tank had broken down after being blown by the wind having been poorly installed. Drip lines were not in place. An interview with the beneficiaries revealed that the greenhouses were installed by residents and no training was conducted.

Consequently, the regularity and value for money for the contract sum of Kshs.16,290,000 for the green houses could not be ascertained.

### **7. Construction of Parking Area, Gate and Fencing of Avocado Factory**

During the year under review, the Management awarded a contract for the construction of a parking, gate and fence for an avocado factory at a contract sum of Kshs.2,900,000. The contract was to commence from 10 May, 2019 to 16 May, 2019. On 20 May, 2019 a completion certificate for Kshs.2,900,000 was raised and payment made on 24 June, 2019. However, a physical verification done during the month of October, 2019 revealed that the chain-link fence was incomplete and the gate had not been constructed while the cabro-parking was not completed despite the full payment having been made.

Consequently, the regularity and value for money of the expenditure of Kshs.2,900,000 could not be ascertained.

### **8. Procurement Plan for Road Projects**

The Department for Roads has a documented Procurement Plan prepared manually. However, details of development activities in the Department were not listed separately but were instead aggregated making it difficult to identify the individual projects in the plan. A review of the Procurement Plan revealed the following:

- i. The Procurement Plan did not show the timelines within which the procurement cycle of the various activities were to be undertaken.
- ii. A comparison with the IFMIS Procurement Plan revealed that the manual Procurement Plan did not specify the actual activities to be carried out but instead aggregated the activities under different line items.
- iii. The IFMIS procurement plan was not aligned to the approved supplementary budget.
- iv. The supplementary budget was prepared and approved in December, 2018. However, the Manual Procurement Plan was not revised resulting to the implementation of projects which were not in the approved final budget.

Management, therefore, breached the provisions of regulation 50(2) of the Public Finance Management (County Governments) Regulations, 2015 that requires expenditure commitments for goods and services to be controlled against spending and procurement plans approved by the Accounting Officer, based on allocations and allotments from approved budgets.

### **9. Irregular Wage Bill**

The statements of receipts and payments reflects an expenditure of Kshs.4,608,874,561 on compensation of employees representing 49% of the total receipts of Kshs.9,489,974,981. This is contrary to the provisions of Regulation 25(1) (a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Executive`s expenditure on wages and benefits to not more than 35% of the total revenue for the year.

Consequently, Management is in breach of the law.

### **10. Non-Compliance with Law on Ethnic Composition**

The Kisii County Public Service Board recruited two hundred and thirty-five (235) officers during the year under review out of whom two hundred and twenty-nine (229) or (97%) were from the dominant ethnic community in the county. This was contrary to provisions of Section 65(1e) of the County Governments Act, 2012 which requires that, in selecting candidates for appointment, the board shall consider the need to ensure that at least thirty percent (30%) of the vacant positions at the entry level are filled by candidates who are not from the dominant ethnic community in the County.

Consequently, Management is 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 Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

### **Basis for Conclusion**

#### **1. Lack of Risk Management Policy**



Management did not avail documentary evidence to support that the County Executive had a Risk Management Policy Framework to guide in identification, classification and developing of responses to various potential risks. The County Executive may not be able to respond effectively in the event of a disaster or an emergency.

Consequently, it has not been possible to confirm Management's preparedness in case of emergence of risk.

## **2. Lack of Internal Audit Committee**

Management did not avail documentary evidence to support that the County Executive has an Audit Committee established and operationalized in the County. This was contrary to provisions of Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 that requires each County Government entity to have an audit committee in place .

Consequently, the County Executive may not have an effective internal control structure to effectively safeguard against irregularities in the use of public resources

## **3. Approved Human Resource Establishment**

Management did not avail supporting documents as evidence that the County Executive has an approved staff establishment and human resource plans for the departments. This is contrary to Section B2(1) of the County Human Resource Policies and Procedures Manual.

In the circumstances, it has not been possible to determine whether the County Executive is optimally staffed.

## **4. Lack of Updated Summary of Fixed Assets**

The summary of fixed assets in Annexure 5 to the financial statements indicates various classes of assets with a total historical costs of Kshs.12,430,323,374 as at 30 June, 2019. However, it was not possible to determine the value of the assets from the assets register because the register was not updated as many assets reflected nil value.

Consequently, it has not been possible to determine the economic value of the assets and whether the Management has taken adequate custody and measures to safeguard the assets.

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 Executive'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 Executive 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 Executive 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 Executive'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 Executive to cease to continue to 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.



**Nancy Gathungu**  
**AUDITOR-GENERAL**

**Nairobi**

**18 February, 2021**