

# REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF KWALE 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 Kwale set out on pages 32 to 81, which comprise of 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 the County Executive of Kwale 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

#### 1.0 Reconciliation of Cash and Cash Equivalents Balances

As disclosed under Note 21A to the financial statements, the statement of financial position reflects bank balances of Kshs.2,944,505,344. Included in the balance are amounts of Kshs.69,254,027 and Kshs.10,932,210 in respect to Kwale County–NARIGP Account and ASDSP II Account respectively in accounts at the National Bank of Kenya. However, the balances varied with amounts reflected in the bank reconciliation statements as at 30 June, 2019, resulting to a total unreconciled variance of Kshs.50,061,930 as detailed below:

<b>Account Name</b>	<b>Balance as per Financial Statements (Kshs.)</b>	<b>Balance as per Bank Reconciliation (Kshs.)</b>	<b>Variance (Kshs.)</b>
National Bank of Kenya Kwale County–NARIGP Account	69,254,027	19,284,027	49,970,000
National Bank of Kenya ASDSP II Account	10,932,210	10,789,810	142,400

<b>Total</b>	<b>80,186,237</b>	<b>30,073,837</b>	<b>50,112,400</b>
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Further, a re-computation of the cash and cash equivalents at end of the year on cash flow statements reflects Kshs.2,944,781,019 resulting to an unreconciled variance of Kshs.70,003.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.2,944,505,344 reflected in the statement of assets and liabilities as at 30 June, 2019 could not be confirmed.

## **2.0 Wrongly Charged Accounts - Use of Goods and Services**

As disclosed under Note 12 to the financial statements, the statement of receipts and payments reflects expenditure on use of goods and services amounting to Kshs.1,598,785,870. The balance includes payments of electricity bills amounting to Kshs.7,037,738, under communication, supplies and services, made by the Department of Water Services on behalf of Kwale Water and Sewerage Company Limited. It has not been explained why the expenditure was charged under use of goods and services instead of grants to other government entities.

Further, the balance of Kshs.282,828,636 under domestic travel and subsistence includes payments amounting to Kshs.1,410,950 expended as recovery of County of Kwale Trade Revolving Fund's loans.

However, Management did not avail any supporting documents including a request by the Fund for assistance to support how expenditure incurred by a different entity was charged to domestic travel and subsistence.

Consequently, the accuracy and completeness of the expenditure of Kshs.8,448,688 under use of goods and services reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be ascertained.

## **3.0 Acquisition of Assets**

As disclosed under Note 17 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.2,281,219,160 under acquisition of assets. However, a review of records revealed the following unsatisfactory matters:

### **3.1 Rehabilitation of Civil Works**

The balance of Kshs.2,281,219,160 constitutes an amount of Kshs.144,914,474 under rehabilitation of civil works which includes a balance of Kshs.15,892,500 paid to a supplier for supply and delivery of sixty (60) energy saving jikos to Early Child Development Education centres within Kwale County. However, there was no evidence that the jikos were delivered to all the sixty (60) schools. It was also noted that the inspection and acceptance committee's report is dated 30 November, 2018, while deliveries to schools

are indicated to have taken place in December, 2018, casting doubt on the authenticity of the deliveries.

### **3.2 Overstatement of Domestic Payables (Pending Bills )**

Further, the balance of Kshs.2,281,219,160 constitutes an amount of Kshs.1,511,692,321 under domestic payables (pending bills). Examination of records revealed that the balance includes Kshs.2,982,276 spent for the rehabilitation and maintenance of Vunga-Tingeti Road. However, available documents indicate that the contracts was signed on 23 July, 2019 which falls within 2019/2020 financial year. The expenditure is therefore, outside the cut-off period for the financial year under review.

In the circumstances, the accuracy, value for money and validity of the Kshs.15,892,500 paid for supply and delivery of sixty (60) energy saving jikos and total rehabilitation and maintenance of roads of Kshs.62,268,820 under domestic payables 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 Kwale 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**

#### **1.0 Budgetary Control and Performance**

The summary statement of appropriation: recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.9,103,256,428 and Kshs.8,577,882,875 respectively resulting to an under-funding of Kshs.525,373,553 or 6% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.10,750,525 and Kshs.7,902,404,562 respectively resulting to an under expenditure of Kshs.2,848,120,546 or 26% of the budget.

There is also a significant decline on County own generated receipts mainly under four revenue streams which reduced by a total of Kshs.19,635,822 or 63% against previous performance as shown below:

No.	Revenue Item/Stream	Current Financial Statements 2018/2019 (Kshs.)	Previous Financial Statements 2017/2018 (Kshs.)	Decrease (Kshs.)	% - age Decrease
1	Receipts from Administrative Fees and Charges	2,434,252	3,798,234	1,363,982	36%
2	Cess	8,597,053	10,967,934	2,370,881	22%
3	County's natural resources	0	15,578,472	15,578,472	100%
4	Slaughter houses administration	529,807	852,294	322,487	38%
<b>Total</b>		<b>11,561,112</b>	<b>31,196,934</b>	<b>19,635,822</b>	<b>63%</b>

Management has attributed the above significant reduction in revenue collection to various reasons including closure of a sugar mill. Consequently, the County Executive may not fully finance its budget activities which may negatively affect service delivery to the residents of Kwale County.

## 2.0 Pending Bills

Outstanding commitments under disclosure Note 1 to the financial statements reflects a pending bills balance of Kshs.3,122,420,970 as at 30 June, 2019 which are mainly due to contractors. However, no evidence in form of contracts, invoices and local purchase orders were availed for audit review. Management has not also explained why the bills were not settled during the year they occurred.

Failure to settle bills in the year to which they relate adversely affect the implementation of the subsequent year's budgeted programs as the pending bills form a first charge to that year's budget provision.

## 3.0 Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, although the Management has indicated that the issues have been resolved, the matter have remained unresolved as the Senate and County Assembly have not deliberated on the same.

## 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 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**

### **1.0 Delay in Projects Implementation**

Review of the projects implementation status reports revealed that several key projects in various Departments with a total allocation of Kshs.2,242,473,924 had not been completed as at 30 June, 2019. Audit inspection undertaken in the month of October, 2019 on twelve (12) sampled projects implemented, revealed several of unsatisfactory issues as shown in **Appendix I**.

The County Executive has not put in place proper project monitoring systems to ensure projects are implemented as per specifications and within the set timelines. Further, each project should have a sign-post indicating the name of the project, source of funds, contractors, supervisors and contract period to distinguish projects implemented by other government agencies and to also monitor progress. These observations are indicative of weaknesses in projects management which may affect service delivery to the residents of Kwale County.

In the circumstances, I am unable to confirm whether the residents of County of Kwale will receive value for money spent on the projects.

### **2.0 Compliance with the Public Procurement and Asset Disposal Act, 2015**

During the year under review, Management entered into a contract for maintenance of Lunga Lunga Road at a contract price of Kshs.3,543,400 which was signed on 18 June, 2019 but later cancelled forty-five (45) days after notification. The contract was awarded to another bidder without retendering as per the Public Procurement and Asset Disposal Act, 2015.

Further, Management entered into a contract for the proposed construction of a foot bridge at Makwembe in Pongwe-Kikoneni Ward at a contract price of Kshs.14,063,104. The contract was signed on 18 June, 2019 after the set deadline of 31 May, 2019. Another contract for the proposed construction of Mkongani-Deri-Ndavaya Road at a contract sum of Kshs.10,000,000 was signed on 24 June, 2019 after the set deadline of 31 May, 2019 and awarded seven (7) days after notification. It was also noted that the budgetary allocation for the Mkongani-Deri-Ndavaya Roads project was only Kshs.6,000,000. No explanation was given for not adhering to both the Regulations and the set budget.

In addition, a contract for road Improvement at Mnyenzi – Mudzi Ubomu – Doti at a contract sum of Kshs.4,680,040 was awarded to the highest bidder in 2015/2016. However, no evidence was availed to confirm that previous invoices had not been settled.

Management is therefore, in breach of the law and the propriety and value for money spent on the projects could not be confirmed.

### **3.0 Cash Management - Issuance of Imprest to Third Parties**

Examination of records availed for audit verifications revealed that during the year under review, a number of officers were issued with imprest amounting to Kshs.87,075,710 on behalf of other officers.

This is contrary to Regulation 89 and 91 of the Public Finance Management (County Governments) Regulations, 2015 which states, that “the officer authorized to hold and operate imprest shall make a formal application for imprest through an imprest warrant”. It was not clear why each officer could not take responsibility for their imprests.

The Management is therefore in breach of the regulations.

### **4.0 Irregular Use of Framework Contracting**

During the year under review, Management procured goods and services amounting to Kshs.72,839,893 through framework contracting. Examination of available records indicated that although the procurement was an open tender, the advertisements did not explicitly state that it was tender for framework contract, contrary to Section 70 (3) of the Public Procurement and Asset Disposal Act, 2015 which states that, “the tender documents used by a procuring entity pursuant to subsection (2) shall contain sufficient information to allow fair competition among those who may wish to submit tenders”.

In addition, only six (6) firms were awarded contracts under the taxi and car hire category, contrary to Section 114 (1-c) of the Public Procurement and Asset Disposal Act, 2015 which states that, “a procuring entity may enter into a framework agreement through open tender if a minimum of seven (7) alternative vendors are included for each category”.

Further, there was no evidence of mini-competition performed amongst framework suppliers in a category to determine the most economically advantageous supplier. There was also no evidence that call off orders were formally made by the buyer and the supplier accepted in line with Section 114(3) of the Public Procurement and Asset Disposal Act, 2015 which states that, “when implementing a framework agreement, a procuring entity may procure through call-offs order when necessary; or invite mini-competition among persons that have entered into the framework agreement in the respective category”. The County may not have realized value for money due to lack of fairness and competitiveness.

Consequently, the Management is in breach of the law.

### **5.0 Non-Compliance with the One Third of Basic Salary Rule**

During the year under review, ninety-one (91) employees earned a net salary of less than a third (1/3) of their basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 and Section 19 (3) of the Employment Act, 2007. The Management has not given an explanation for the failure to comply with the policy. This may expose the staff to pecuniary embarrassment.

In the circumstances, the Management is in breach of the law and policies.

## **6.0 Non-Compliance with the Law on Ethnic Composition**

During the year under review the County Executive recruited three hundred and thirty-four (334) officers through the County Public Service Board out of whom two hundred and seventy-one (271) or (81%) were from the dominant ethnic community in the County. This is 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 matter 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**

#### **Lack of Audit Committee**

The County Executive of Kwale had not established an Audit Committee. This contravened Section 42 (1) (e) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officers to ensure all county entities have an Audit Committee in place.

In the circumstances, I am unable to confirm the existence of effective oversight on the operations of the County Management.

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 the intention to dissolve the County Executive 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 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 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 Executive 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 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**

**12 April, 2021**

## Appendix I: Unsatisfactory Project Implementation

No.	Project	Project Cost Kshs.	Inspection Observations
1	Construction of Governor's residence	149,216,374	<ul style="list-style-type: none"> <li>The project completion date had been extended twice from April 2019 to April 2020</li> <li>No signage erected to identify project owner</li> <li>Workers were not wearing safety gear</li> </ul>
2	Construction of County Headquarter	462,376,631	<ul style="list-style-type: none"> <li>Portioning and external works including laying of cabro was on-going</li> <li>Date of completion unknown</li> </ul>
3	Reroofing of Amphitheatre	6,000,000	<ul style="list-style-type: none"> <li>Stalled project as Contractor not on site, no work going on. Information available indicates contract was terminated</li> <li>The open roof has exposed the wooden trusses to wet conditions during the rainy season.</li> </ul>
4	Construction of perimeter wall on the Rehab Centre	9,699,980	<ul style="list-style-type: none"> <li>Project completed but not equipped</li> <li>No signage erected to identify project owner</li> </ul>
5	Sports Fields Levelling, Mvindeni, Kwale Main Stadium	16,369,060	<ul style="list-style-type: none"> <li>Project incomplete</li> <li>No signage erected to identify project owner</li> <li>No title for the land</li> </ul>
6	Construction of Fresh Produce Wholesale Market at Kombani	105,911,142	<ul style="list-style-type: none"> <li>Contractor on site</li> <li>No provision for water harvesting</li> <li>Some workers had no safety gear</li> </ul>
7	Purchase of 18 motor cycles	9,599,634	<ul style="list-style-type: none"> <li>The motor cycles were lying at the County Headquarters and had not been distributed to village administrators</li> </ul>
8	Construction of Oncology Centre, Ramisi	41,950,694	<ul style="list-style-type: none"> <li>Project not started</li> </ul>
9	Construction of a twin staff house at Mvindeni	5,180,173	<ul style="list-style-type: none"> <li>Kitchen windows not fixed.</li> <li>Land title not in the name of the County Government</li> </ul>
10	Rehabilitation of Moyeni Dispensary in Kinango Ward	5,579,014	<ul style="list-style-type: none"> <li>Complete but not in use due to delayed completion of toilet</li> </ul>

No.	Project	Project Cost Kshs.	Inspection Observations
11	Construction of a maternity complex wing Phase 2 in Ramisi Ward	27,867,352	<ul style="list-style-type: none"> <li>• Delayed completion, expected completion date was February, 2019. No evidence of extension</li> <li>• Finishes, doors, plumbing, electrical works are outstanding</li> </ul>
12	Design and installation of backbone fibre optic network infrastructure	18,396,056	<ul style="list-style-type: none"> <li>• The service is functioning outside the County Headquarters</li> </ul>
	<b>Total</b>	<b>858,146,110</b>	