

# **REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF MACHAKOS 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 Machakos set out on pages 1 to 63, which comprise the statement of assets and liabilities as at 30 June, 2019, and statement of receipts and payments, statement of cash flows and 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 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 the County Executive of Machakos 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), the Public Finance Management Act, 2012, and the County Governments Act, 2012.

### **Basis for Qualified Opinion**

#### **1. Variances between Financial Statement and IFMIS Balances**

Comparison of balances generated from the Integrated Financial Management Information System (IFMIS) with those reflected in the financial statements presented for audit revealed significant variances in regard to sixteen(16) accounts listed in the attached Appendix 1

The variances have not been explained by Management and as a result, the accuracy and completeness of the financial statements for the year ended 30 June, 2018 have not been confirmed.

#### **2. Unconfirmed Bank Balance**

The statement of assets and liabilities as at 30 June, 2019 reflects a bank balance amounting to Kshs.1,765,502,491, as further disclosed in Note 21A to the financial statements. However the balance excludes balances totalling Kshs.991,164,852.50 held in five (5) special purpose bank accounts disclosed in Annex 5 to the financial statements.

In the circumstances, the reported bank balance as at 30 June, 2019 totalling Kshs.1,765,502,491 is not fairly stated.

In addition, included in the balance is Kshs.10,643,135 held at Chase Bank which was placed under statutory receivership by the Central Bank of Kenya in 2016. Some of the assets and liabilities of the bank have since been bought by a foreign-owned bank. There

was no movement in the balance during the financial year under review, or confirmation that it was recoverable.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Executive of Machakos 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. I have determined that except for the matters described in the Basis for Qualification section of my report, there were no key audit matters to communicate in my report for the year under review.

## **Other Matter**

### **1. Budget Control and Performance**

#### **1.1 Shortfall in Budgeted Receipts and Under-Expenditures**

The statement of appropriation: recurrent and development combined for the year ended 30 June, 2019 reflects final revenue budget and actuals on comparable basis amounting to Kshs.14,965,224,307 and Kshs.13,329,971,403 respectively resulting in a deficit of Kshs.1,635,252,904 or 11% of the budgeted receipts. Management attributed the underperformance to a deficit amounting to Kshs.1,503,906,187 in receipts from donor funds, and County own generated deficits amounting to Kshs.162,850,033.

Similarly, comparison of actual revenues totalling Kshs.13,329,971,403 with actual expenditures totalling Kshs.11,778,408,758 incurred during the year under review revealed under-absorption of Kshs.1,551,562,645 or 12% of the revenue collected.

Management has not provided any plausible reason for the revenue shortfall and the under-expenditure.

Failure to collect budgeted receipts, and the under-expenditure, meant that the County Executive did not carry out some of its planned operations and projects during the year under review. This in turn hampered delivery of services promised to the residents of Machakos County.

#### **1.2 Development Budget Analysis**

The statement of appropriation: development reflects development, budget for the year under review totalling Kshs.5,395,548,388 against actual expenditure on comparable basis amounting to Kshs.3,073,530,573 resulting in under-expenditure of

Kshs.2,248,324,762 equivalent to 43% of the budget. However, analysis of the development budgets for the County Executive's twelve (12) departments revealed a combined development budget of Kshs.5,101,548,388 which sum differs by Kshs.294,000,000 with the budget amount of Kshs.5,395,548,388 shown in the statement of appropriation: development.

Management has not explained the variance.

Further, under-absorption in excess of 50% of budgeted amounts was noted in the; Trade, Economic Planning & Industrialization, Health and Emergency Services, Education and Youth and Social Welfare Departments. No explanations were provided for the low level of activity in these dockets.

## **2. Pending Bills**

Note 7.10 to the financial statements reflects under other important disclosures - Sub-item 1 pending accounts payables totalling Kshs1,194,756,796 as at 30 June, 2019, as detailed in Annex 2 to the financial statements. However, examination of the expenditure schedules revealed that some of the pending bills have been outstanding for long periods, some as far back as the 2013/2014 financial year. No plausible explanations were provided by Management for the failure to settle the bills in spite of the County Executive reporting annual surpluses after the bills were incurred.

Further, had the pending bills been settled and the expenditure charged to the respective votes, a surplus of Kshs.356,805,849 would have been reported during the year under review instead of the sum of Kshs.1,551,562,645 reflected in the financial statements presented for audit.

## **3. Unresolved Prior -Year Matters**

The following matters reported in the previous year's audit report remained unresolved as at 30 June, 2019.

### **3.1 Failure to Disclose Assets Inherited from the Defunct Local Authorities**

The financial statements for the year ended 30 June, 2018 did not include the assets of the defunct local authorities in Machakos County in spite of the County Government having taken over the assets. In addition, the County Government did not have in its possession ownership documents for the assets taken over, including title deeds for lands and log books for vehicles. As a result, there is risk of the assets being transferred to third parties without the consent of the County Government.

In view of these anomalies, it was not possible to confirm the carrying values of the assets and their ownership status as at 30 June, 2018.

### **3.2 Failure to Secure County Residential Houses**

The National Housing Corporation (NHC) developed a housing scheme- Depot Housing Scheme in Machakos Municipality Block 1/197-214 comprising of 25 (twenty-five) units on behalf of the defunct Masaku County Council many years ago. Records held by the

NHC indicate that the Scheme was funded through a loan to the defunct Council and the debt was eventually paid. However, all the housing units were taken over by the National Government through the Ministry of Housing and Urban Development on completion. They were thereafter let out to civil servants who pay rent to the Ministry.

No explanation has been provided on why the National Government took over a project funded by a local authority. Further the County Government has not explained the actions it has taken to repossess the houses.

### **3.3 Installation of Substandard Running Track at Machakos Stadium**

During the 2017/18 financial year, the Department of Tourism, Sports and Culture hired a contractor to install an all-weather synthetic running track at Machakos Stadium at a contract price of Kshs.37,946,172. As at 30 June, 2019, the County Government had paid the contractor Kshs.25,000,000 equivalent to 66% of the contract sum. However, an audit inspection revealed that a section measuring about one-third of the track had become worn out less than an year after it was installed. Consequently, unless corrections are made, value for money will not be obtained on expenditure totalling Kshs.37,946,172 incurred on the track.

### **3.4 Failure to Secure Ownership of Immovable Assets**

Examination of asset records revealed that an undetermined number of land parcels and buildings belonging to the County Government valued at Kshs.961,451,472 did not have title deeds and were therefore prone to grabbing or encroachment. Other records indicated that eighteen (18) parcels of land of various sizes recognized by the defunct Municipal Council of Mavoko as public utilities in Syokimau and Numerical area of Mavoko Sub-County had been sub-divided and allocated to private individuals and institutions in unexplained circumstances. A physical check revealed that most of the land had since been developed or fenced off by the private developers and only a few were vacant. In addition, no documents were presented for audit to explain the sub-division of the 18 parcels of land.

There is no evidence showing that the County Government has lately made efforts to secure public ownership of the properties by following up the matter with the National Government and Judicial authorities.

### **3.5 Grounded Motor Vehicles**

The audit of 2016/2017 financial year accounts of the County Executive revealed that seventeen (17) vehicles attached to the Decentralized Units, County Administration, Water and Irrigation and Department of Solid Waste Management and Inspectorate Departments were not operational. Some of the vehicles were less three years old. There was no evidence of Management having initiated repair of the vehicles. In addition, a fire engine (GKA 036X -Mercedes Actros) was similarly grounded at Mavoko Sub-County Offices and as a result, fire-fighting services in the Sub-county were greatly hampered.

A review of the matter in 2019 revealed that the vehicles were still grounded.

# 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 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. Compensation of Employees**

The statement of receipts and payments for the year ended 30 June, 2019 reflects compensation of employees costs totalling Kshs.5,229,810,671, as further disclosed under Note 11 to the financial statements. This was equivalent to 39% of the annual revenue contrary to the threshold of 35% of total revenue prescribed in Section 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. Therefore, the County Executive is in breach of law.

### **2. Implementation of Construction Projects**

#### **2.1 Stalled Construction of Building**

In 2017/18 financial year, the County Government contracted out the construction of a building of between 12 and 15 floors at a cost of Kshs.394,999,999. The contract was to be executed over a period of sixty-eight (68) weeks and completed on 05 August,2019.

Examination of expenditure records indicated that although the contractor was advanced Kshs.39,144,144 in April 2018, the first payment certificate valued at Kshs.41,407,638 was paid in full without recovery of the advance as required by procurement regulations. Further, a site visit on 13 September, 2019 revealed that the overall completion level was at 7% despite the contract period having lapsed.

The funds invested in the project are at a risk of loss due to the delay in its completion. Management has not provided any plausible explanation why the project stalled.

#### **2.2 Incomplete Machakos New City Project**

During the 2017/2018 financial year, the County Executive awarded seven (7) contracts for the construction of seven (7) modern buildings under a project named 'Machakos New City'. The buildings comprised of three (3) office buildings and four (4) commercial ones with recreational centers. The projects valued at Kshs.1,304,438,963 in aggregate were to be completed on diverse dates between April and October, 2019. Examination of project documents revealed that, as at 30 June, 2019, payments totalling Kshs.311,729,126 had been made on account of the seven projects.

However, physical verification of the project sites in November, 2019 revealed that none of the buildings had been completed in spite of the respective project periods having

lapsed. Further, review of the project status report indicated that the projects' completion levels ranged between 10% and 60% as outlined in Appendix III to this report.

Management have explained that the delays were mainly due to lack of sufficient funds. In view of the delays, the benefits envisaged from the 'Machakos New City' project have not been realized. Further, the delays are likely to raise the costs of the projects due to inflationary or other causes.

### **2.3 Construction of Commercial Development Center**

The County Government through the Department for Roads and Transport awarded a contract for construction of a commercial development center at a contract sum of Kshs.55,495,945 during the 2017/18 financial year. The contract was to be executed over 26 weeks to September 06, 2018. Although the contractor was granted an advance payment amounting to Kshs.5,549,594 on 23 April, 2018, he did not start work on schedule after taking over the site on 08 March, 2018.

Records examined during the audit indicated that the contractor's two payment certificates, namely, Nos 1 and 2 amounting to Kshs.2,975,379 and Kshs.2,398,931 respectively were paid in full without recovering the advance payment amounting to Kshs.5,549,594.

Audit verification of the project and examination of records in September, 2019 revealed the project was at 15% level of completion. Although the project period had lapsed for more than one year, there was no evidence of action taken by Management to remedy the breach of the tender agreement by the contractor.

In view of the delayed works, the residents of Machakos County have not received the benefits due from the project. Further, the delay could cause the project's cost to increase due to inflationary or other causes.

### **3. Irregular Payment of Legal Fees Advance**

In October 2018, the Department of Trade and Economic Planning committed to pay a law firm Kshs.4,640,000 in legal fees to prepare a Public Private Partnership (PPP) Bill. The Bill would, upon enactment by the County Assembly, regulate investment partnerships between investors and the County Executive. However, the firm was paid Kshs.1,100,000 in advance on 27 September, 2018 ahead of the signing of the formal contract. There was, therefore, no legal authority for the payment.

Further, there was no evidence showing that the firm was identified and the amount payable arrived at through a competitive process as required by the Public Procurement and Asset Disposals Act, 2015. As a result, it is not possible to confirm that the cost amounting to Kshs.4,640,000 agreed with the law firm represented prudent use of public funds.

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, I confirm that, except for the matters described in the Basis for Qualification and Basis for Lawfulness and Effectiveness in use of resources sections of my report, nothing has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

### **Basis for Conclusion**

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 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 ability of the County Executive to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the 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 ability of the County Executive 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 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**

**13 November, 2020**

## Appendix 1 – Variances Between Financial Statement and IFMIS Balances

	<b>Item Description</b>	<b>Financial Statement Balance (Kshs)</b>	<b>IFMIS Balance (Kshs)</b>	<b>Variance (Kshs)</b>
1	Exchequer releases	10,329,149,578	6,754,355,060	3,574,794,518
2	Transfers from Other Government Entities		337,004,444	-337,004,444
3	County Own generated Receipts	1,557,211,641	491,886,135	1,065,325,506
4	Returned CRF issues	1,443,610,184		1,443,610,184
5	Compensation of Employees	5,229,810,671	5,849,729,183	-619,918,512
6	Social Security Benefits	111,397,344	53,860,171	57,537,173
7	Use of goods and Services	1,396,806,741	1,928,424,742	-531,618,001
8	Transfers to Other Government Units	3,416,660,115	1,402,140,567	2,014,519,548
9	Other Grants and Transfers		770,000	-770,000
10	Acquisition of Assets	1,623,733,886	1,922,149,335	-298,415,449
11	Other payments		12,370,865	-12,370,865
12	Bank Balances	1,765,502,491	1,414,427,818	351,074,673
13	Cash Balances		28,070,568,301	-28,070,568,301
14	Accounts Receivables - Outstanding Imprest and Clearance Accounts	0	512,496,866	-512,496,866
15	Accounts Payable	151,628,962	41,128,943,311	-40,977,314,349
16	Fund Balances Brought Forward	1,476,516,985	-8,348,511,631	9,825,028,616

**Appendix II – Unconfirmed Bank Balance**

<b>S/No.</b>	<b>Account Name</b>	<b>Account No.</b>	<b>Amount (Kshs)</b>
1	Kenya Climate Smart Agriculture Programme (KCSAP)	1000364815	38,525,536
2	ASDSP(Swedish)	1000364823	4,609,900
3	Village Polytechnic Account	1000368047	6,338,225
4	Kenya Roads Board (KRB)	1000274317	87,417,657.90
5	Kenya Urban Support Programme (KUSP)	10003716668	854,273,533.60
	<b>Total</b>		<b>991,164,852.50</b>

### Appendix III – Implementation Status of New Machakos City Project as at 30 June, 2019

	<b>Contract No.</b>	<b>Project Name</b>	<b>Contract Sum Kshs.</b>	<b>Start Date</b>	<b>Completion Date</b>	<b>Payment as at 30 June 2019 Kshs.</b>	<b>Completion Status (%)</b>
1	GMC/PW&H/ 003/2017/18	Construction of Machakos Conference Facility	74,170,816	01 March, 2018	15 June, 2019	32,999,190	60%
2	GMC/PW&H/ 001/2017/18	Construction of Machakos County office Block	287,110,237	05 April, 2018	04 April, 2019	122,611,712	46%
3	GMC/PW&H/ 004/2017/18	Construction of Commercial Development Centre	55,495,944	05 April, 2018	28 June, 2019	5,374,310	15%
4	GMC/PW&H/ 007/2017/18	Design and build Twin-12 storey Government Building (One Wing)	394,999,999	05 April, 2018	05 August, 2019	41,407,638	7%
5	GMC/PW&H/ 007/2017/18	Design and build Twin-12 storey Government Building (Second Wing)	399,640,361	05 April, 2018	15 October, 2019	89,976,416	15%
6	GMC/PW&H/ 006/2017/18	Construction of Public Facility	37,585,666	05 April, 2018	14 September, 2019	19,359,860	50%
7	GMC/PW&H/ 005/2017/18	Community Recreational Centres 3.no.	55,435,940	05 April, 2018	28 September, 2019	-	10%
	<b>Total</b>		<b>1,304,438,963</b>			<b>311,729,126</b>	