

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF TRANS NZOIA 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 Trans Nzoia set out on pages 1 to 33, which comprise the statement of assets and liabilities as at 30 June 2018, and the statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts 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 effect 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 County Executive of Trans Nzoia 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 the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Fixed Assets Register

The statement of receipts and payments reflects acquisition of assets figure of Kshs.782,820,414 incurred during the year under review in addition to assets acquired since inception of the County in 2013 amounting to Kshs.3,634,546,464 as at 30 June 2017. However, the summary of fixed assets register at Annexure 5 to the financial statements reflects nil balance. Further, the electronic fixed assets register maintained was not up to date as it did not include all the assets procured by the County Executive since inception and those taken over from the defunct local authorities. The register also lacked vital information such as date of acquisition, cost of the assets, and location of the assets among others, contrary to Section 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control or possession.

In the circumstances, it was not possible to ascertain the accuracy of the summary of fixed assets register as at 30 June 2018.

2. Differences Between Financial Statements Figures and IFMIS Report

The statement of receipts and payments reflect total payments totalling Kshs.5,839,385,755 whereas the IFMIS report reflects payments totalling Kshs.3,932,299,793 resulting into an unreconciled variance of Kshs.1,907,085,962 as detailed below:

Items	IFMIS Report (Kshs)	Financial Statements (Kshs)	Variance (Kshs)
Acquisition of Assets	453,145,233.00	782,820,414.00	(329,675,181.00)
Compensation of Employees	1,800,848,589.85	2,667,942,552.00	(867,093,962.15)
Finance Costs, Including Loan Interest	42,395,099.50	43,639,112.00	(1,244,012.50)
Other Grants and Transfers	120,178,630.00	50,000,000.00	70,178,630.00
Other Payments	857,552,317.60	7,683,700.00	849,868,617.60
Social Security Benefits	28,517,983.65	40,410,072.00	(11,892,088.35)
Transfers to Other Government Units	9,773,800.00	550,288,525.00	(540,514,725.00)
Use of Goods and Services	619,888,139.80	1,696,601,380.00	(1,076,713,240.20)
	3,932,299,793.40	5,839,385,755.00	(1,907,085,961.60)

In addition, the statement of receipts and payments reflect total receipts totalling Kshs.6,305,090,762 compared to the IFMIS report which reflects a figure of Kshs.4,872,899,973.50, resulting into an unreconciled variance of Kshs.1,432,190,788 as detailed below.

Items	IFMIS Report (Kshs)	Financial Statements (Kshs)	Variance (Kshs)
Exchequer Releases	4,875,865,453.50	5,647,400,000.00	(771,534,546.50)
Proceeds From Domestic and Foreign Grants	-	183,431,058.00	(183,431,058.00)
Returned Crf Issues	-	36,800,609.00	(36,800,609.00)
Other Receipts	(2,965,480.00)	248,724,083.00	(251,689,563.00)
Transfers from Other Government Entities	-	188,735,012.00	(188,735,012.00)
Total	4,872,899,973.50	6,305,090,762.00	(1,432,190,788.50)

Consequently, the completeness and accuracy of the financial statements for the year ended 30 June 2018 could not be confirmed.

3. Cash and Cash Equivalents Balance

While the statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.566,846,740 as at 30 June 2018, the statement of cash flows for the year ended 30 June 2018 reflects cash and cash equivalents balance of Kshs.543,692,977 hence resulting into an unreconciled variance of Kshs.23,153,763.

In the circumstances, the accuracy of the statement of cash flows for the year ended 30 June 2018 could not be confirmed.

4. Outstanding Imprests

The statement of assets and liabilities reflects accounts receivables – outstanding imprest balance of Kshs.60,338,990 as at 30 June 2018. However, the schedule availed for review reflected Kshs.34,644,847, leading to an unsupported balance of Kshs.25,694,143. In addition, no reason has been provided for failure to recover the outstanding imprests which should have been accounted for on or before 30 June 2018 contrary to Section 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which require that imprests be surrendered within seven (7) working days after returning to the work station.

Consequently, the accuracy and recoverability of the imprests amounting Kshs.60,338,990 as at 30 June 2018 could not be confirmed.

5. Accounts Payables - Borrowing from Financial Institution

The accounts payable balance of Kshs.83,492,753 as at 30 June 2018 includes borrowing from financial institution of Kshs.74,120,868 as disclosed in Note 23 to the financial statements. Information available indicate that the County Executive through letter dated 15 July 2017, applied for an overdraft facility of Kshs.204,000,000 which included principal amount of Kshs.198,000,000 and interest of Kshs.6,000,000 from Equity Bank, Kitale to pay June 2017 salaries. The overdraft was to be repaid within forty-five (45) days. However, the proceed of the overdraft was not accounted for as a receipt in the financial statements contrary to Section 141(5) of the Public Finance Management Act, 2012 which states that all the proceeds of borrowing under this Act shall be paid in to the County Revenue Fund.

Although information available indicates that the management made a request for extension of the overdraft repayment period and which was granted by the bank, no reason has been provided as to why the overdraft has remained outstanding for almost a year. In addition, the details of the terms for the extended repayment period has not been provided for audit review.

Consequently, the management is in breach of the law and may lead to loss of public funds through interest charges that were not budgeted for.

6. Avoidable Tax Interest and Penalty

The finance costs including interest amount of Kshs.43,639,112 for the year ended 30 June 2018 includes Kshs.21,135,585 paid to Kenya Revenue Authority in respect to penalty of Kshs.20,322,678 and interest of Kshs.812,907 for delayed remittance of the tax recoveries for the month of November 2017 as below:

Payroll Month	Payee Amount Kshs.	Penalty@ 25% Kshs.	Interest 1% pm Kshs.	Total Kshs.
Nov. 2017	81,290,713.00	20,322,678	812,907	102,426,298

A charge of Kshs.21,135,585 on Executive funds amounted to nugatory payment as it was avoidable. In addition, the interest and penalty were not budgeted for and hence affecting cash flow position of the Executive.

Delay in remittances of statutory deduction to Kenya Revenue Authority is contrary to Section 37 of the Income Tax Act which require that the PAYE for the current month should be accounted for and remitted by the 9th day of the following month.

7. Accounts Payable (Pending Bills)

A list of pending bills amounting to Kshs.1,263,846,780 were availed for audit review. However, they were not supported by LSOs/LPOs, invoices, reports of the inspection and acceptance committee, goods receipt notes among others. In addition, they have not been disclosed in Annexure 2 to the financial statements as required by the reporting format recommended by the Public Sector Accounting Standards Board (PSASB).

Consequently, the management contravened National Treasury Circular Reference AG/101/ (7S) which requires the accounting officer to institute stringent financial controls and maintain financial discipline in order to achieve efficient utilization of resources.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Executive of Trans Nzoia 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 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 section, I have determined that there are no other key audit matters to communicate in my report.

Other Matter

1. Budgetary Control and Performance

1.1 Budget Absorption

During the year under review, the County Executive had an approved budget of Kshs.6,628,528,220 which comprised recurrent vote budget of Kshs.4,632,197,963 and a development vote budget of Kshs.1,996,330,257. During the same period, the Executive recorded expenditure of Kshs.5,839,385,755 to result to an overall budget under-absorption of Kshs.789,142,465 representing 12% as summarized below:

Vote	Approved Budget 2017/2018 (Kshs)	Actual Expenditure 2017/2018 (Kshs)	Budget Utilisation Difference (Kshs)	% of Utilisation
Recurrent	4,632,197,963	4,888,529,960	-256,331,997	106
Development	1,996,330,257	950,855,795	1,045,474,462	48
Total	6,628,528,220	5,839,385,755	789,142,465	88

The under absorption was mainly on development vote on which Kshs.950,855,795 was expended out of the approved budget of Kshs.1,996,330,257 to result to under expenditure of Kshs.1,045,474,462 representing 52%.

The under-absorption of the approved budget is an indication that some activities and development projects in the annual plan were not implemented by the County Executive which may have affected service delivery to the residents of Trans Nzoia County.

1.2 Development Budget

During the year under review, the County Executive allocated Kshs.1,904,343,713 to development projects and spent a total of Kshs.796,421,012, resulting into net under expenditure of Kshs.1,107,922,701 for all departments except for Department of Water, Environment & Natural Resources which recorded an over expenditure of Kshs.45,459,909 as detailed below:

Department	Budgeted Allocation 2017/18 Kshs.	Actual 2017/18 Kshs.	Under/Over Absorption Kshs.	Under/Over Absorption rate (%)
Agriculture, Livestock, Fisheries & Cooperative development	109,361,849	33,488,812	75,873,037	69.38%
Economic Planning, Commerce & Industry	79,953,686	20,328,831	59,624,855	74.57%
Water, Environment & Natural Resources	188,397,053	233,856,962	(45,459,909)	(24.13)%
Public Works, Transport and Infrastructure	565,978,809	274,843,989	291,134,820	51.44%
Health	592,394,773	154,266,363	438,128,410	73.96%
Lands, Housing & Physical Planning	78,203,502	8,425,000	69,778,502	89.23%
Gender, Youth, Sports, Culture & Tourism	78,207,863	13,477,611	64,730,252	82.77%
Education & ICT	154,509,877	30,207,901	124,301,976	80.45%
Governance, Public Service & Management	27,841,250	12,271,682	15,569,568	55.92%
Finance	29,495,051	15,253,861	14,241,190	48.28%
Sub-Total	1,904,343,713	796,421,012	1,107,922,701	58.18%
County Public Service Board	18,000,000	18,000,000	18,000,000	100.00%
County Assembly	73,986,544	73,986,544	73,986,544	100.00%
Sub-Total	91,986,544	91,986,544	91,986,544	100.00%
Total	1,996,330,257	796,421,012	1,199,909,245	60.11%

The under-absorption of the approved development budget is an indication that some activities and development projects in the annual plan were not implemented by the County Executive.

1.3 Recurrent Budget

During the year under review, the County Executive allocated Kshs.4,068,745,538 to recurrent/normal operations vote and spent a total of Kshs.3,965,975,049 resulting to net under expenditure in all the ten departments. There was over expenditure above 10% in the

Departments of Agriculture, Livestock, Fisheries & Cooperative Development, Education & ICT, Governance, Public Service & Management and Finance as detailed below:

Department	Budgeted Allocation 2017/18 Kshs.	Actual 2017/18 Kshs.	Under/Over Absorption Kshs.	Under/(Over) Absorption rate(%)
Agriculture, Livestock, Fisheries & Cooperative development	295,392,246	597,010,171	(301,617,925)	(102.11)%
Economic planning, Commerce & Industry	61,701,034	56,432,586	5,268,448	8.54%
Water, Environment & Natural Resources	72,568,298	64,327,369	8,240,929	11.36%
Public works ,Transport and & Infrastructure	343,155,308	81,783,774	261,371,534	76.17%
Health	1,570,724,082	1,639,989,672	(69,265,590)	(4.41)%
Lands, Housing & Physical planning	94,948,240	16,190,151	78,758,089	82.95%
Gender, Youth, Sports, Culture & Tourism	139,789,643	95,473,640	44,316,003	31.70%
Education & ICT	400,290,613	121,703,777	278,586,836	69.60%
Governance, Public Service & Management	383,564,851	436,047,800	(52,482,949)	(13.68)%
Finance	706,611,223	857,016,109	(150,404,886)	(21.29)%
Sub-Total	4,068,745,538	3,965,975,049	102,770,489	2.53%
County Public Service board	33,000,000	22,516,100	10,483,900	31.77%
County Assembly	530,452,425	239,147,960	291,304,465	54.92%
Sub-Total	563,452,425	261,764,060	301,788,365	53.56%
Total	4,632,197,963	4,227,639,109	404,558,854	8.73%

However, no authority or documentary evidence of re-allocation of funds to the departments that recorded over expenditure above the approved budget were availed for review. Consequently, the management breached the law and some planned projects may not be implemented.

1.4 Project Implementation

1.4.1 Ministry of Health

Verification of Major Projects Under the Ministry of Health

Audit verification carried out in November 2018 on some projects that were initiated prior to the 2017/18 financial year revealed that they were still incomplete as detailed below:

Contractor	Work Done	Date of Agreement.	Contract Sum Kshs.	Amount Paid Kshs.	Site Visit Comments
M/s Shalom (D) Contractors	Construction of OPD, Nabiswa Dispensary	9/11/2016	3,375,000	2,434,860	<ul style="list-style-type: none"> About 90% complete Project has taken about 24 months instead of 9 months
M/s Sea Whalers Enterprises	Cons of OPD Block at Sibanga disp	30/6/2016	3,153,6733	2,753,980	<ul style="list-style-type: none"> Laid on existing foundation hence loss of Kshs.507,000 spent on substructure works. Lying on unfenced area and the unfinished building vandalized and dirty. The project has taken over 27 months instead of 9 months.
M/s Kenbet Enterprise	Const of OPD Tom Mboya HC	30/6/2016	3,056,460	2,589,030	The project is not fully paid. No completion certificate but in use.
M/s Jodinde Enterprise	Construction of OPD- Naisamb dispensary	21/6/2016	3,175,070	2,129,770	On-going
M/s Bulawayo Construction Co.	Renovation works, Kachibora Sub county Hosp	5/5/2017	5,823,548	5,373,548	The project is stalled.
M/s Kokisey Cons	Cons Maternity ward at Kaibey dispensary	29/6/2016	4,004,668	3,302,868	On-going
M/s Nazareth Holdings	Construction of OPD at Tarakwa dispensary	30/6/2016	3,365,720	3,365,720	On-going
M/s Greenfield cons services	Cons of Ablution block at KMTC	16/6/2014	3,041,926	3,041,926	On-going
	Total		57,379,125	24,991,702	

Although the management attributes the delay to completion of the projects to poor funding, the explanation did not appear satisfactory since the department only utilised Kshs.154,266,363 representing 26% of the approved development budget of Kshs.592,394,773 resulting to an under expenditure of Kshs.438,128,410 representing 74% under absorption. Consequently, the residents of Trans Nzoia may not have obtained the health services they are entitled to.

1.4.2 Department of Agriculture

A total of Kshs.109,361,849 was allocated to the Department of Agriculture to finance 8 projects in the financial year ended 30 June 2018. However, the implementation of these projects was behind schedule and by 30 June 2018, only 6 out of 8 projects had been started as detailed below:

No.	Project Description	LPO/ LSO	Contract Amount Kshs.	Budget Item	Project Physical Location	Status of the Project
1.	Construction of grain store	1083874	816,580	2211008	Saboti	Complete and in use
2.	Construction of grain store	1083875	2,604,119	2211008	Kiminini	Complete and in use
3.	Construction of grain store	1083876	975,528	2211008	Kwanza	Complete and in use
4.	Construction of pit latrine & bathroom	001153	644,041.20	2211008	Kiminini	Complete and in use
5.	Ablution & fencing	001569	2,401,316	2211008	Kwanza	On going
6.	Tissue Culture Lab	2211008	4,700,000	2211008	Saboti	On going
7.	Planting Fertilizer	000839	30,968,750	2640399	County Wide	Bought and distributed
8.	Top dressing Fertilizer	000840	20,837,600	2640399	County Wide	Bought and distributed
	Total		63,947,934.2			

Delay in implementation of the projects impacts negatively on provision of adequate facilities to improve the standards of living of the residents of Trans Nzoia County.

1.4.3 Department of Gender, Youth, Culture, Sports and Tourism Stalled Projects

The department had a development budget of Kshs.78,207,863 out of which Kshs.13,477,611 was expended, leading to an under expenditure of Kshs.64,730,252 representing 83% of the budget. Despite the above budget provision for new projects, the management failed to initiate any new projects in the department during the year under review. In addition, the projects that were initiated in previous period remained incomplete as at the time of audit in November 2018 as detailed below:

S/No	LPO/LSO No	LPO/LSO Date	Budget Item	Budget Amount Kshs.	Amount Paid Kshs.	Project Description & Location	Remarks
1.	1112926	8/12/2015	Refurbishment of buildings - other	25,000,000	169,000	Leveling of Wiyeta Primary school sports ground- Sinyereri ward	Works stalled
2.	1112911	12/1/2016	Refurbishment of buildings - other	25,000,000	364,000	Leveling of Kisawai primary school sports ground Kinyoro ward	Works stalled
3.	599751	21/5/2016	Refurbishment of buildings - other	25,000,000	1,288,50	Construction of perimeter stone wall and landscaping of Amahoro sports ground – Sikhendu ward	Work stalled

The residents of Trans Nzoia County may not have obtained value for the expenditure incurred on the projects due to delay in their implementation and non-initiation of new projects that were budgeted for.

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 report 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. Revenue

1.1 Revenue Collection at the Health Facilities

Included in the county own generated receipts amount of Kshs.248,724,083 is Kshs.36,488,353 being direct expenditure by two health facilities of Kitale County and Mt Elgon Sub-County Hospitals as indicated below:

Institution	Amount Collected Kshs.	Amount Banked Kshs.	Expenditure at Source Kshs.
Kitale County Hospital	45,578,615	15,711,625	29,898,305
Mt. Elgon Sub County Hospital	11,589,414	4,898,436	6,590,048
Total	57,168,029	20,610,061	36,488,353

The use of revenue at source is contrary to Regulation 63(4) of the Public Finance Management (County Governments) Regulations, 2015 which states that all public moneys collected by a receiver of revenue or collector of revenue or collected and retained by a county government entity, shall be paid into the designated bank accounts of the county government and shall not be used by any public officer in any manner between the time of their receipts and payment into the bank except as provided by law.

Consequently, the management breached the law.

1.2 User Fees

Included in the transfer from other government entities figure of Kshs.188,735,012 is user fees figure of Kshs.10,104,377 received in the County Revenue fund account on 14 May 2018. However, the Department of Health did not provide any details on how this amount was to be utilized neither was it possible to confirm how the amount was subsequently spent.

1.3 Disbursement of DANIDA Funds to Health Centres and Dispensaries

Included in proceeds from domestic and foreign grants figure of Kshs.183,431,058 under DANIDA (Donor Funds) figure of Kshs.14,723,664 are funds meant for 26 health centres

each at Kshs.328,125 and 38 dispensaries each at Kshs.162,958 of which a total of Kshs.1,152,124 was not released to five health facilities as follows;

	Health Facility	Amount in Kshs.
1	Rafiki Health Centre	338,125
2	Tom Mboya Health Centre	325,125
3	Cheptantan Dispensary	162,958
4	Misanga Dispensary	162,958
5	Nasianda Dispensary	162,958
	Total	1,152,124

Although it was explained that the reason for non-disbursement of the funds was due to accounts for the health facilities not being operationalised and that the amount of Kshs.1,152,124 was later disbursed to other health facilities, no documentary evidence were provided for audit review to indicate when the same was disbursed.

2. Compensation of Employees

The compensation of employees figure of Kshs.2,667,942,552 is approximately 42.3% of the total revenue of Kshs.6,305,090,762 and thus exceeded the recommended ratio of 35% stipulated in Section 25(1) of the Public Finance Management (County Governments) Regulations, 2015. Consequently, the management is in breach of the law and the wage bill may not be sustainable unless adequate measures are put in place to contain the rising wage bill and increase collection of county own generated revenue.

3. Acquisition of Assets

3.1 Construction of the Main Kitale Bus park

In the previous year report, construction of the Kitale bus park and main modern market amounted to of Kshs.33,922,079 during 2016/2017. Further, a review records indicated that the project commenced on 4 December 2015 and was expected to be completed by 16 June 2016. However, during the year under review, a further amount of Kshs.7,792,802 was incurred in the project which was included in construction of civil works amount of Kshs.180,406,981 under the acquisition of assets figure of Kshs.782,820,414. The expenditure of Kshs.7,792,802 brought the total cumulative expenditure of the project to Kshs.228,990,099 out of the contract sum of Ksh.355,256,265. Information available indicates that the contract period was extended to 30 April 2017. However, project verification carried out in November 2018 revealed that the project had stalled and the contractor was not on site.

Consequently, the objective of the project may not have been achieved and the residents of the County have not received value for Ksh.228,990,099 so far spent on the project.

3.2 Proposed Construction of Trans Nzoia County Teaching and Referral Hospital-Kitale

In the previous year's report, reference was made to an expenditure of Kshs.182,749,350 made in respect of the proposed construction of the Trans-Nzoia County Referral and Teaching Hospital and that the interim certificates for works done were being issued by a private consultant contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 which requires inspection and acceptance committee to issue interim or completion certificates. Further, no reason was provided as to why the project was not supervised by the state department of roads and public works.

Audit review of the project during the year under review revealed that phase two of the project which included equipping of the hospital was awarded to the main contractor for a contract sum of Kshs.732,338,531 as per the contract agreement signed on 15 December 2017 and was to be completed in 62 weeks in February 2019 and an amount of Kshs.195,007,447 was paid towards the project and which was included in construction of buildings figure of Kshs.291,155,877 under the acquisition of assets figures of Kshs.782,820,414. However, the report and certificates of the inspection and acceptance committee were not availed for review to confirm if the works done and equipment supplied met the specifications. Audit verification of the project carried out in November 2018 revealed that the project stalled in June 2018 and no reason was provided as to why the contractor had abandoned the project.

Consequently, the project may not be completed in time and the residents of Trans Nzoia County may not have received the services and benefits of the completed hospital.

3.3 Purchase of Land

Included in acquisition of assets figure of Kshs.782,820,414 is acquisition of Land Kshs.8,425,000 which includes Kshs.2,475,000 paid to Walterluk-Mabonde for the purchase of Block 13/Bikeke/733. However, the valuation report availed was for Kshs.2,150,000 leading to overpayment for the land by Kshs.325,000 of which had not been explained in regard to Department of Lands, Housing and Physical Planning as analysed below:

Voucher	Payment Date	Payee	Details	Amount Kshs.
328	16-Feb-18	Nakoba Paintings And Glass Fitting Enterprises	Walterluk - Mabonde (Block 13/Bikeke/733) for expansion of health centre-	2,475,000
		Total		2,475,000

In the circumstances, the propriety of the over expenditure of Kshs.325,000 incurred on purchase of land could not be confirmed for the year ended 30 June 2018.

3.4 Construction of Small Market Shades - (Kimila and Matisi)

Included in the acquisition of assets amount of Kshs.782,820,414 is construction and civil works amount of Kshs.180,406,981 which includes a total of Kshs.1,041,150 paid to two firms for construction of two market sheds at Matisi and Kimila markets respectively. However, review of the project records revealed the following anomalies;

i. Matisi Market Sheds

A construction firm was paid Kshs.507,210 out of a contract sum of Kshs.1,491,144 for construction of Matisi Market sheds for a contract period of 6-8 weeks. However, the payment mode was not indicated in the contract agreement. Further, the tender documents (including bids/quotations, tender evaluation minutes, letter of award and letter of acceptance) were not provided for audit review. In addition, as at the time of audit, the market was still incomplete.

ii. Kimila Market Sheds

Another construction firm was paid Kshs.533,940 out of contract sum of Kshs.1,487,184 for construction of a market shed at Kimila Market. However, the payment mode was not indicated in the contract agreement. Further, the tender documents (including bids/quotations, tender evaluation minutes, letter of award and letter of acceptance) were not provided for audit review. Further, project progress report was not availed for audit review.

Consequently, the propriety of the expenditure of Kshs.1,041,150 incurred on the two market sheds during the year under review could not be confirmed.

3.5 Construction of Sikhendu Market

The County Executive engaged a local construction company for construction of Sikhendu fresh produce market at contract sum of Kshs.15,221,975 which was completed and officially opened on 20 October 2018 for use. However, an audit verification on the market in November 2018 revealed that the water gutters were already broken and manhole chambers were all open.

Consequently, the residents of Trans Nzoia County may not have obtained value for money incurred on the market.

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 Report on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing 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. Information Technology (IT) Internal Control

Audit review of the County Executive ICT department revealed that it has no approved ICT strategy committee, strategic plan, IT steering committee to oversee the County IT assets. There was also no formal documented and tested emergency procedure in place, approved disaster recovery and business continuity plans. Further, formal approved user account management policy with users having unique user name together with proper air conditioning of the server room were not in place.

Consequently, the County Executive may not be able to continue normally in case of a disaster and the ICT assets of the county executive are also not secured.

2. Governance Framework

2.1 Failure to Establish an Audit Committee

The County Executive of Trans Nzoia has not established an audit committee contrary to Section 167(1) of the Public Finance Management (County Government) Regulations, 2015 which require each county government entity to establish an audit committee. The County Executive is therefore in breach of the law.

2.2 Lack of Independent Internal Audit Function

The County Executive of Trans Nzoia has established an internal audit unit. However, the internal audit function reports both administratively and functionally to the CEC Finance instead of an Audit Committee contrary to Regulation 155(1) of the Public Finance Management (County Government) Regulations 2015, which states that the head of internal audit unit in a County Government entity shall enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the audit committee. In addition, the internal audit function operated without an approved internal audit charter detailing the scope, responsibilities and purpose of internal audit function as required. Further, during the year under review the internal audit department did not prepare any internal audit reports highlighting the risks existing, weaknesses in the systems of internal control and the recommendations thereon.

Consequently, the unit lacks the operational independence to execute its mandate of overseeing governance mechanisms and promoting transparency and accountability in management of the County Executive.

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 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 governance.

In preparing the financial statements, management is responsible for assessing the Executive's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using basis of accounting unless the management either intends to liquidate the Executive or to cease operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

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 scepticism 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 Executive's 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 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 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

29 January 2019