

# REPORT OF THE AUDITOR-GENERAL ON REVENUE STATEMENTS FOR THE YEAR ENDED 30 JUNE, 2019 – THE JUDICIARY

## REPORT ON THE REVENUE STATEMENTS

### Qualified Opinion

I have audited the accompanying revenue statements of the Judiciary set out on pages 6 to 11, which comprise the statement of arrears of revenue as at 30 June, 2019 and the statement of receipts and transfers 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 revenue statements present fairly, in all material respects, the revenue position of the Judiciary as at 30 June, 2019, and of its revenue performance 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. Transactions Recurring in Bank Reconciliations

The statement of revenues and transfers reflects a total of Kshs.1,601,586,282 revenue collected during the year under review. However, examination of the June, 2019 bank reconciliation statements for various court stations revealed reconciling items which, as previously reported, have been recurring for more than three (3) months, with some dating back to the year 2013. This is contrary to Section 11.5 (d) of the Judiciary Finance Policy and Procedures Manual which requires variances and outstanding items to be followed up within thirty (30) days and not to recur on the bank reconciliations for a period longer than three (3) months.

<b>Court Station</b>	<b>Receipts in the Cashbook not Recorded in the Bank Statement (Kshs.)</b>	<b>Payments in the Bank Statement not Recorded in the Cashbook (Kshs.)</b>	<b>Receipts in the Bank Statement not in the Cash book (Kshs.)</b>	<b>Payments in the Cashbook not in the Bank Statement (Kshs.)</b>
Employment and Labour Relations Court - March, 2019	72,389	-	3,981,415	5,544,147
Milimani Commercial Courts - August, 2018	74,895	13,548	1,897,403	-
Shanzu Law Courts - July, 2018	-	-	-	37,514,264

Kisumu Law Courts	197,590	-	-	0
Naivasha Law Courts	-	-	1,086,683	152,000

Under the circumstances, the accuracy and completeness of the reported revenue of Kshs.2,601,586,282 could not be confirmed.

## **2. Revenue Management at the Courts**

The statement of revenues and transfers reflects a total of Kshs.1,601,586,282 revenue collected during the year under review. However, an audit inspection of revenue records maintained at various Courts revealed the following matters:

### **2.1 Kwale Law Courts**

Kwale Law Courts did not use the Standard F030 Forms designated for executing bank reconciliations. In addition, there was no evidence that bank reconciliation statements were reviewed, examined or submitted to the Regional Assistant Director Finance (RADFs). For the examined bank reconciliation statements, the cash books and bank balances used in the preparation of bank reconciliations were not accurate. Further, a review of revenue recorded in the cash book compared to revenue recorded in the collection control sheets revealed an unexplained variance totalling Kshs.193,834. Detailed examination of cash books revealed that in the month of November, 2018, the cash book reflected a balance carried forward of Kshs.663,088. However, the opening balance brought forward in December, 2018 was Kshs.404,894 resulting to unaccounted for revenue of Kshs.258,194.

### **2.2 Makadara Law Courts**

Examination of records at the Makadara Law Courts revealed that the total amount of revenue transferred to the Judiciary main collection account was Kshs.99,151,143. However, the amount declared as revenue at the court station was Kshs.99,463,164 resulting in an unexplained difference of Kshs.312,021.

### **2.3 Kisii Law Courts**

Revenue collected and recorded in the cash book differed with the revenue returns at the Head Office by Kshs.809,394. The variance was not explained or reconciled. In addition, the opening deposit cash book balance as at 01 July, 2018 was Kshs.29,852,273, while the opening bank balance on the same date was Kshs.15,839,407 resulting into an unreconciled variance of Kshs.14,012,865 which was not resolved within the three (3) months resolution period stipulated under Section 11.5 of the Judiciary Finance Policy and Procedures Manual.

### **2.4 Kilifi Law Courts**

Analysis of the deposit's records revealed that, during the de-linking from the District Treasury in November, 2015, the previous Kenya Commercial Bank (KCB) deposit account No.1107279305 had a credit balance of Kshs.19,700 which was not transferred to the new KCB Account No. 117329686. In addition, at the time of de-linking, the outstanding deposits amounted to Kshs.14,274,402. However, the District Accountant

transferred Kshs.12,943,163 to the new KCB Deposit Account leaving a balance of Kshs.1,331,238. The District Treasury has been holding these funds without any explanation for the past five years.

Further, fines collected during the month of June, 2019 amounting to Kshs.444,571 and fees totalling Kshs.469,563 though surrendered to the Head Office and deposited in KCB collection account had not been posted in the cash book. In addition, the cash books had not been reviewed and examined as required by the Judiciary Finance Policy and Procedures Manual. Also, there were deposits amounting to Kshs.511,134 which had been outstanding for a period of over ten (10) years in the books of Kilifi Law Courts without any explanations.

## **2.5 Mombasa Law Courts**

Cheques totalling to Kshs.38,136,310 had become stale since they had not been presented for payment for more than six (6) months. In addition, there were deposits amounting to Kshs.70,791,917 which were outstanding for a period of over ten (10) years in the books of Mombasa Law Courts without any explanations.

## **2.6 Nakuru Law Courts**

Examination of the Collection Receipt Book Register (CRB) established poor record keeping for the collection receipt books at the Nakuru Law Courts. For example, it was not possible to establish the source of sixty (60) Collection Receipt Books used and how they were surrendered to Nakuru Law Courts.

## **2.7 Kericho Law Courts**

Regulation 90 of the Public Finance Management (National Government) Regulations, 2015 provides that Accounting Officers shall ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer, every month and submit a bank reconciliation statement not later than the 10<sup>th</sup> of the subsequent month to The National Treasury with a copy to the Auditor-General. However, bank reconciliation statements for the deposit and revenue cash books for Kericho Law Courts were not provided for audit verification.

## **2.8 Milimani Law Courts**

A review of counter receipt books registers and cash book at the Milimani Law Courts revealed that there were fifty-six (56) long outstanding un-surrendered counter receipt books. Out of these, seventeen (17) were used for receipting deposits, forfeitures, utilization and court fines while thirty-nine (39) were used for receipting fees. In addition, some of the cashiers were holding more than one receipt book simultaneously. Although the receipted amounts were banked, these were yet to be posted into the cash book.

In view of the foregoing matters relating to collection and accounting for revenue, the accuracy and completeness of the reported revenue of Kshs.2,601,586,282 could not be confirmed.

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

Various prior years' audit issues remained unresolved as at 30 June, 2019. Management has not provided reasons for the delay in resolving the prior years' audit issues or disclosed them under the progress on follow up of auditor's recommendations section of the financial statements as per the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Judiciary Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with ISSAIs and in accordance with other ethical requirements applicable to performing audits of revenue 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 revenue statements. There were no key audit matters to report in the year under review.

## **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, I confirm that nothing has come to my attention to cause me to believe that public resources have been applied lawfully and in an effective way.

### **Basis for Conclusion**

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 revenue 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 discussed in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance sections of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

## **Basis for Conclusion**

### **1. Irregular Long Acting Appointments**

An examination of the Human Resources records established that there were ten (10) staff of the Judiciary who are on Acting appointments as provided for in the organizational structure. However, some of the positions had been held for over three (3) years contrary to Section B20(iii) and (iv) of the Judiciary Human Resources Policies and Procedures Manual. The manual stipulates that persons on Acting appointment be limited to 12 months at any given time for vacant positions after which, a decision must be made to either confirm the employee, extend the acting for a further six months or revert the person to the former post. No explanation has been provided for this anomaly.

### **2. Fire Safety Measures or Disaster Management Plan**

Audit review established that the Shanzu Law Courts does not have Fire Safety Measures and a Disaster Management Plan in place to cater for any eventual hazards and therefore safe custody of files cannot be guaranteed. Further, the Criminal and Traffic Offenses Files Registers at the court had some of the pages in the files plucked and missing. This may hinder prompt settlement of cases with missing entries.

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 revenue 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 statements that are free from material misstatement, whether due to fraud or error; and for assessment of the effectiveness of internal control, risk management and governance.

In preparing the revenue statements, the Management is responsible for assessing the Judiciary's ability 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 terminate the Judiciary or to cease operations.

Management is also responsible for the submission of the revenue 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 preparing and presenting the revenue statements described above, Management is also responsible for ensuring that the activities, transactions and information reflected in the revenue statements comply 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 revenue 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 revenue 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 revenue statements.

In addition to the audit of the revenue statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, transactions and information reflected in the revenue statements comply 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.

Further, in planning and performing the audit of the revenue 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 revenue 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 revenue 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 Judiciary 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 revenue 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 Judiciary to cease to offer its services.
- Evaluate the overall presentation, structure and content of the revenue statements, including the disclosures, and whether the revenue statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding information and business activities of Judiciary to express an opinion on the revenue 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**

**02 February, 2021**