REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF BARINGO FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Baringo set out on pages 1 to 27, which comprise the statement of financial assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows and the statement of comparison of budget and actual amounts 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 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 the County Assembly of Baringo as at 30 June, 2020, 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 and the County Governments Act, 2012.

Basis for Qualified Opinion

1. Inaccurate Statement of Cash Flows

The statement of cash flows reflects cash and cash equivalents balance totalling Kshs.3,286,831 which, however, differs with the sum of Kshs.3,244,031 reflected in the statement of assets and liabilities in respect to the account. The difference amounting to Kshs.42,800 between the two sets of records has not been explained. In addition, the statement of cash flows excludes adjustments for changes in accounts receivables totalling to Kshs.13,036,700 and Kshs.61,410 for the year 2018/2019 and 2019/2020 financial years respectively.

From the foregoing, the accuracy and completeness of the statement of cash flows for the year ended 30 June, 2020 has not been confirmed.

2. Omitted Fund Balance

The statement of assets and liabilities reflects nil amount of fund balance brought forward from 2018/2019 financial year. However, the audited financial statements for the year reflected a closing fund balance of Kshs.242,201. The difference between the two statements has not been explained.

Consequently, the accuracy and completeness of the statement of assets and liabilities as at 30 June, 2020 has not been confirmed.

3. Variance Between Financial Statements and IFMIS Balances

Several account balances reflected in the financial statements differ from those reflected in respect to identical accounts in the Integrated Financial Management Information Systems (IFMIS) trial balance resulting in net debit variance of Kshs.3,919,758,209 as shown in the attached Appendix 1. No explanation has been provided for the differences and as a result, the accuracy and completeness of the financial statements has not been confirmed.

4. Misclassification of Expenses

The statement of receipts and payments reflects expenditure on use of goods and services and acquisition of assets totalling Kshs.267,991,879 and Kshs.50,475,844 respectively, as further disclosed in Notes 3 and Note 6 to the financial statements respectively. However, several expenditure items totalling Kshs.4,638,745 analyzed in the attached Appendix II do not relate to use of goods and services or acquisition of assets and have, therefore, been misclassified in the financial statements.

In the circumstance, the use of goods and services and acquisition of assets balances totalling Kshs.267,991,879 and Kshs.50,475,844 respectively do not reflect the true and fair view of the expenditures incurred on the two items during the year under review.

5. Unsupported Allowances and Mileage Claims

The statement of receipts and payments reflects compensation of employees costs totalling Kshs.359,535,346, as further disclosed in Note 2 to the financial statements. Included in the balance are allowances and mileage claims for the months of March, April, May and June, 2020 totalling Kshs.3,749,371. However, evidence of meetings or activities undertaken in relation to the expenditures were not presented for audit.

Consequently, the occurrence and validity of allowances and mileage claims payments totalling Kshs.3,749,371 for the year ended 30 June, 2020 has not been confirmed.

6. Unconfirmed Imprest Expenditures

The statement of receipts and payments reflects use of goods and services expenditure totalling Kshs.267,991,879, as further disclosed in Note 3 to the financial statements. Included in the expenditure on goods and services were imprests totalling Kshs.148,678,032 that were charged to the respective budget lines upon issuance to officers and were not surrendered on completion of the respective tasks, as prescribed in Regulation 93(5) of the Public Finance Management (County Governments) Regulations, 2015.

In the absence of imprest surrender records, the occurrence and validity of the expenditure totalling Kshs.148,678,032 incurred through imprests and charged to use of goods and services for the year ended 30 June, 2020 could not be confirmed.

7. Bank Balances

The statement of financial assets and liabilities reflects bank balances totalling Kshs.3,244,031, as further disclosed in Note 7 to the financial statements. However, the following unsatisfactory issues were noted in respect to the balance:

7.1. Omitted Bank Account

As similarly reported in the previous year, the cashbook and bank statement balance as at 30 June, 2020, reflects operations bank account No.1142302326 at a local bank with a balance of Kshs.356,356 as at 30 June, 2020. However, the balance is not included in the cash and cash equivalents balance of Kshs.3,244,031 reflected in the statement of assets and liabilities as at 30 June, 2020. This is despite of the disclosure of the account under other bank disclosures in Note 8 to the financial statements.

7.2. Omitted Cash in Hand and Un-analyzed Receipts

The recurrent cashbook reflects cash in hand balance amounting to Kshs.118,560 as at 30 June, 2020 which, however, is neither supported with a Board of Survey Report nor disclosed in the financial statements.

In addition, the recurrent account bank reconciliation statement as at 30 June, 2020 reflects un-analyzed receipts in cashbook not yet recorded in the bank statement totalling Kshs.55,369,830 and whose nature has, therefore, not been confirmed.

Consequently, the accuracy and fair statement of the reported bank balances totalling Kshs.3,244,031 as at 30 June, 2020 has not been confirmed.

8. Non-Maintenance and Disclosure of Deposits and Retentions Account

Examination of records on construction works indicated that the County Assembly did not maintain a deposits and retentions account although payment records indicated that a sum of Kshs.2,554,536 was deducted for the purpose from payments made to contractors during the year under review. Further, the deductions were not disclosed in the financial statements.

In the circumstances, the County Assembly's deposits and retention monies may not have been accounted for.

9. Incomplete Disclosure of Fixed Assets

Annex 2, Summary of fixed asset register reflects County Assembly assets with historical cost of Kshs.94,057,997. However, Management did not maintain a fixed asset register with information on the nature of the assets and their location, among other details.

Consequently, the ownership, completeness and accuracy of fixed assets balance totalling Kshs.94,057,997 reflected in the financial statements has not been confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Assembly of Baringo 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 judgement, are of most significance in the audit of the financial statements. I have determined that 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, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing 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. Excess Revenue Receipts

The County Assembly received Exchequer Releases from the County Treasury totalling Kshs.707,962,885 representing 12.8% of Kshs.5,519,759,147 County revenue for the year. The transfers exceeded the threshold set in Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015, which caps the approved expenditures of a County Assembly at not more than 7% (seven per cent) of the total revenues of the County Government or 200% (two hundred per cent) of the personnel emoluments of the County Assembly, whichever is lower. The excess transfers amounted to Kshs.321,579,744.

2. Delayed Completion of Construction Project

The statement of receipts and payments reflects acquisition of assets costs totalling Kshs.50,475,884, as further disclosed in Note 6 to the financial statements. However, the following unsatisfactory issues were noted in respect to the expenditure:

2.1 Delayed Construction of County Assembly Gallery

Audit inspection confirmed that work on a project to expand the County Assembly initiated in 2018 continued during the year under review. The contract valued at Kshs.26,811,973 included construction of a public gallery at a cost of Kshs.19,181,461 and was due for completion on 13 March, 2020. However, the audit confirmed that the public gallery had not been completed at the time of the audit in October, 2020.

Any further delay in completing the pending works will delay delivery of the services the gallery was intended to provide and could result in additional costs being incurred on the project.

2.2 Delayed Construction of Offices

As reported in the previous year, the County Assembly entered into a contract to build an office at a total cost of Kshs.40,000,000 in 2014. A sum of Kshs.6,402,124 was spent on the project during the year under review which raised the total payments made under the contract to 39,064,413 as at 30 June, 2020. An audit inspection carried out in October, 2020, confirmed that the project was yet to be completed and was behind schedule by five (5) years having been expected to be completed in 2015. Management valued the pending works at Kshs.10,934,430. However, a works certificate dated 11 January, 2019 indicated that the contractor had partially handed over the building to Management even though the contract had not provided for partial completion and handover of the works. Further, the Ministry of Public Works was yet to issue a certificate of occupancy for the building which, however, had already been put to use.

Management did not provide any plausible explanation for the anomaly.

2.3 Unauthorized Variation of Contract

Examination of the project's records indicated that the cost of the ramp to the building was varied from Kshs.3,103,595 to Kshs.10,589,201 equivalent to a 241% increase in the contract price. However, the variation was not subjected to competitive bidding contrary to Section 139 (4)(a) of the Public Procurement and Asset Disposal Act, 2015. The provision prescribes that any contract price variation must be based on the prevailing consumer price index obtained from the Kenya National Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya. The variation of works should, in addition, not exceed 20% (twenty per cent) of the original contract value.

In the circumstance, Management contravened the law and further, there was no confirmation that value for money was obtained from the additional funds totalling Kshs.7,485,606 spent on the project.

3. Irregular Payment for Subscription Fees

The statement of receipts and payments reflects use of goods and services totalling Kshs.267,991,879 which includes other operating costs expenses totalling Kshs.20,544,835.

Examination of expenditure records indicated that in the year under review, Management made donations totalling Kshs.500,000 and Kshs.800,000 to the Society of Clerks at the Table and The County Assemblies Forum respectively. However, the donations were not budgeted for in the estimates for the year. Therefore, they were incurred contrary to Section 149(1)(a) of the Public Finance Management Act, 2012 which requires the Accounting Officers to use the public resources they are responsible for in a lawful way.

4. Failure to Establish Public Finance Management Standing Committee

Review of the operational systems of the County Assembly confirmed that Management had not established a Public Finance Management Standing Committee to provide strategic guidance on public finance management. The omission contravened Regulation 18(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires every County Government entity to establish the Committee.

In the circumstance, Management may be lacking appropriate advice on use of the public funds at its disposal.

5. Irregularities in Compensation of Employees

Examination of compensation of employees records revealed the following irregularities:

5.1. Non-Adherence to the One-Third Basic Salary Rule

Analysis of payrolls indicated that thirty (30) employees drew net salaries that were below one-third of their basic pay contrary to Section 19(3) of the Employment Act, 2007. The provision prohibits employers from deducting more than two-thirds of the wages of an employee at any one time. The excessive deductions resulted from Management allowing the staff to incur loans and other liabilities whose repayments were deducted by check-off.

In the circumstance, the Management contravened the law and put the officers at the risk of pecuniary embarrassment.

5.2. Overemployment of Ward Staff

Review of the Ward Office records indicated that that four (4) officers were employed in each ward instead of the three (3) prescribed by the Commission on Revenue Allocation in its Circular Ref. CRA/CSO/CMG/9/VOL.V(43) of 28 June, 2018. The records indicted the excess staff in the year under review numbered twenty-nine (29) and were retained at an annual cost of Kshs.20,893,812 in salaries and emoluments.

In the circumstance, Management contravened provisions on management of staff costs.

5.3. Lack of an Authorized Staff Establishment

Examination of personnel management systems indicated that the County Assembly did not have an approved staff establishment. As a result, recruitment and retention of staff was not based on approved human resource management plans.

Consequently, there was risk of Management misapplying public resources by overemploying staff and failing to recruit and retain those with the skills and competencies required to effectively manage the operations of the County Assembly.

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.

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 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

Lack of Risk Management Policy

The County Assembly did not have a risk management policy in place during the year under review. Consequently, there were no guidelines on how to mitigate operational and other risks faced by the County Assembly. The omission contravened Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies that build robust business operations.

Consequently, the County Assembly may not response adequately to events that may affect its operations in an unfavorable way.

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 Assembly's ability to continue to sustain 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 Assembly.

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 Assembly 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 Assembly'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 Assembly 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 Assembly 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
<u>AUDITOR-GENERAL</u>

Nairobi

12 October, 2021