REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF KISUMU 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 Kisumu set out on pages 1 to 21 which comprise of the statement of financial assets and liabilities as at 30 June, 2020, 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 effects of the matter described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the County Assembly of Kisumu 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 County Governments Act, 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

As disclosed in Note 2 to the financial statements, the statements of receipts and payments reflects a balance of Kshs.287,555,780 in respect of compensation of employees which includes personal allowances paid as part of salary amounting to Kshs.119,496,096. However, the Integrated Financial Management Information System (IFMIS) report reflects an amount of Kshs.77,040,344 as County Assembly attendance allowances, while the Integrated Personnel and Payroll Database (IPPD) payroll indicates an amount of Kshs.53,147,140 as sitting allowances to the Members of the County Assembly (MCAs). The three sets of records have not been reconciled.

Consequently, the accuracy and completeness of personal allowances of Kshs.119,496,096 for the year ended 30 June, 2020 could not be confirmed.

2. Use of Goods and Services

As disclosed in Note 13 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.351,161,392 in respect of use of goods and services. However, review of the expenditure under the various components revealed the following unsatisfactory matters: -

i. The balance includes routine maintenance-vehicle and other transport equipment balance of Kshs.5,060,000 out of which the Management paid a service provider an extra Kshs.222,604 in respect of repair and maintenance for a vehicle. However, supporting documents were not provided for audit review.

ii. Management paid foreign traveling allowance of Kshs.239,025 to a Member of County Assembly while on a study tour on leadership and governance in Addis Ababa – Ethiopia from 11 – 16 December, 2019. However, records availed showed that the MCA was in Ethiopia for only two (2) days whose allowances was Kshs.89,610 resulting to unsupported overpayment of Kshs.149,415.

iii. The balance includes other operating expenses balance of Kshs.71,119,549 which includes an amount of Kshs.10,160,783 paid as legal fees. However, Management did not provide supporting documents such as procurement process records and the contract.

iv. Included in the balance of rentals of produced assets of Kshs.24,667,958 is an amount of Kshs.5,450,885 paid to a company for rent and other charges for lease of offices. However, Management did not provide procurement documents such as tender committee minutes, advertisements, letter of acceptance of offer and needs assessment report for audit review.

v. Management paid an amount of Kshs.810,000 for a three (3) days conference. However, review of the supporting invoice and the bank details, revealed that the payee was different from the firm which provided the services. Management did not provide explanation for the inconsistency.

In the circumstances, the accuracy and validity of the expenditure amounting to Kshs.Kshs.351,161,392 under use of goods and services for the year ended 30 June, 2020 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Kisumu Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts: recurrent and development combined reflects total expenditure budget of Kshs.716,921,494 against actual expenditure of Kshs.707,837,365 resulting to under absorption of Kshs.9,084,129. However, although the County Assembly registered an overall 99% budget absorption, under development vote, only Kshs.12,202,560 was spent against an approved budget of Kshs.20,000,000, resulting to an under expenditure of Kshs.7,797,440 or 39%. Management did not provide any reason for the under expenditure.

The underperformance in the development budget affected the acquisition of assets and impacted negatively on service delivery to the public.

2. Pending Accounts Payables

Annexures 1, 2 and 3 under other disclosures in the financial statements reflects accounts payables (pending bills) amounting to Kshs.61,160,148 which includes non-interest debts of Kshs.44,872,631 borrowed from County Assembly of Kisumu Car Loan and Mortgage but had not been settled during the year under review and were carried forward to 2020/2021.

Failure to settle the bills during the year to which they relate affects the provisions of services for the subsequent year to which they have to be charged.

3. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Reference No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

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 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. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees of County Assembly was eighty-nine (89) out of whom eighty (80) or 97 % were members of the dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community”.

Consequently, Management is in breach of the law.

2. Non-Compliance with the Law on Fiscal Responsibility - Wage Bill

The statements of receipts and payments reflects an expenditure of Kshs.287,555,780 on compensation of employees representing 49% of the total receipts of Kshs.709,070,900. This is contrary to the provisions of Regulation 25(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the County Executive`s expenditure on wages and benefits to not more than 35% of the total revenue for the year.

Consequently, Management is in breach of the law.

3. Compliance with the Human Resource Policies and Procedures

As disclosed in Note 13 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.351,161,392 in respect of use of goods and services. The balance includes hospitality supplies and services of Kshs.27,434,484 which further includes an amount of Kshs.1,156,848 that was paid as meal allowances to officers who worked beyond official hours. However, it was observed that the officers were working within their duty stations yet they were paid accommodation allowance (per diem allowance) alongside the meal allowances. This is contrary to Section C.17(1) of Human Resource Policies and Procedures manual for the Public Service, 2016 which states that; meal allowance will only be paid to officers travelling on duty within the country but who are not required to spend a night away from the permanent duty station and that meal allowance will not be paid alongside accommodation allowance.

Consequently, the Management was in breach of the law.

4. Compliance with the Public Procurement and Asset Disposal Act, 2015

The Management floated three (3) quotations on 21 April, 2020 to three (3) firms for a comprehensive insurance cover for three (3) motor vehicles. The lowest evaluated bidder quoted Kshs.211,342 premiums per month. However, the Management awarded the tender to the highest bidder who quoted Kshs.215,360 without justification contrary to Section 82(1) of the Public Procurement and Disposal Act, 2015 which stipulated that the successful tenderer shall be the lowest evaluated bidder.

Consequently, the Management was in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Incomplete Fixed Assets Register

Annex 4 - summary of fixed assets register in the notes to the financial statements reflects a value of Kshs.94,166,418 on fixed asset as at 30 June, 2020. However, the balances could not be confirmed as Management had not updated the assets register and had also omitted the values of the assets and their dates of acquisition. Further, various assets both at the County Assembly and in the Ward offices were not coded for ease of verification.

Consequently, the Management lack effective internal controls to safeguard the fixed assets.

2. Weak Internal Control on Payroll Management

Review of Human resource data indicated that Management was processing both salaries and deductions directly through the bank and not through the salary control account. This is contrary to section 6.3 of the County Financial Accounting and Reporting Manual which defines the basic procedures to be followed while preparing, recording and accounting for personnel expenditure from the monthly payroll preparation through IPPD to documents filing and archiving. This is aimed at providing accurate and reliable data in the management of personnel records and references.

In the circumstances, Management has not instituted internal control mechanism to ensure accurate and credible payroll data but relies on a third-party system with little or no control.

3. Lack of Implementation of a Strategic Plan

The County Assembly had a Strategic Plan running from 2013-2017 which had identified risk factors and mitigation measures such as lack of adequate resources to meet the funding requirements, staff capacity and low public participation among others. However, the Management did not implement the strategic plan. Further, it was noted that the County Assembly did not formulate a new strategic plan even after the expiry of the 2013-2017 Strategic Plan.

In the circumstances, it has not been possible to determine the existence of an effective governance intervention to facilitate achieving the strategic objectives.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the County Assembly's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to dissolve the County Assembly 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 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 policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgment 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 to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

02 December, 2021