REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF KITUI 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 Kitui set out on pages 1 to 30, 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 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 Kitui 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. Variances Between Financial Statements and IFMIS Balances

The following balances reflected in the financial statements for the year ended 30 June, 2020 were at variance with Integrated Financial Management Information System (IFMIS) trial balance as summarized below:

Item Description	Financial Statements Balance (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Exchequer Releases	876,406,892	2,288,126,893	(1,411,720,001)
Communication, Supplies and Services	7,932,616	7,739,666	192,950
Domestic Travel and Subsistence	108,838,926	104,411,726	4,427,200
Printing, Advertising and Information Supplies & Services	14,395,615	13,662,043	733,572
Training Expenses	10,046,675	9,911,675	135,000
Hospitality Supplies and Services	85,964,587	80,667,621	5,296,966
Office and General Supplies & Services	11,103,380	10,642,026	461,354
Fuel, Oils & Lubricants	3,013,431	2,570,339	443,092

Item Description	Financial Statements Balance (Kshs.)	IFMIS Trial Balance (Kshs.)	Variance (Kshs.)
Routine Maintenance – Vehicles & Other Transport Equipment.	2,497,956	2,228,342	269,614
Routine Maintenance – Other Assets	786,933	719,193	67,740
Construction of Buildings	0	10,654,275	(10,654,275)
Refurbishment of Buildings	20,405,199	0	20,405,199
Finance Costs	17,493	0	17,493
Other Payments	4,118,418	0	4,118,418
Recurrent Account	11,250	(44,675,277)	44,686,527
Development Account	5,092	11,454,607	(11,449,515)
Cash in Hand	2021	3,502,702,196	(3,502,700,175)
Accounts Receivables-Outstanding Imprest	0	310,000	(310,000)
Accounts Payable-Deposits & Retentions	0	227,203	(227,203)
Withholding Tax	0	(77,261)	77,261
System Required Liabilities	0	(432,987,483)	432,987,483
Cash Clearing Account	0	(4,208,822,238)	4,208,822,238
Fund Balance B/F	1,916	2,599,626,895	(2,599,624,979)

In the circumstances, the accuracy, validity and completeness of the balances as reflected in the financial statements could not be confirmed.

2. Unsupported Remuneration of Ward Offices Staff

The statement of receipts and payments reflects an expenditure of Kshs.434,877,918 under compensation to employees which, as disclosed in Note 4 to the financial statements, includes an amount of Kshs.47,215,307 relating to basic wages of temporary employees. The expenditure of Kshs.47,215,307 was incurred on salaries and allowances for staff employed in the forty (40) Ward Offices across the County. However, supporting documents indicating how the officers were recruited and their terms of service determined, were not provided for audit review.

Under the circumstances, the accuracy, completeness and validity of the expenditure of Kshs.47,215,307 incurred on ward offices employees could not be confirmed.

3. Unsupported Payments for Communication Services

The statement of receipts and payments reflects an expenditure of Kshs.400,164,031 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.7,932,616 relating to communication, supplies and services. The latter balance includes an amount of Kshs.817,368 paid to a service provider for internet connectivity. However, a formal contract agreement stipulating the terms and conditions of services was not provided for audit review. This is contrary to Section135(1) of the Public Procurement and Asset Disposal Act, 2015 which states that the existence of a contract shall be confirmed through the signing of a contract document incorporating all agreements between the parties.

Under the circumstances, the accuracy, completeness and validity of the expenditure of Kshs.817,368 incurred on internet connectivity services could not be confirmed.

4. Ward Operational Expenses

The expenditure of Kshs.400,164,031 under use of goods and services also includes an amount of Kshs.67,995,712 in respect of other operating expenses which in turn includes Kshs.50,497,600 for wards' operational expenses. The expenditure was incurred through imprests issued to forty (40) legislative wards of the County Assembly. Further, an amount of Kshs.100,000 was paid monthly to each of the forty (40) wards to cater for costs of assembling County residents and for general ward offices expenses. However, supporting documents for the Kshs.100,000 monthly allocation were not provided for audit review.

Under the circumstances, the accuracy and validity of the expenditure of Kshs.50,497,600 incurred on wards' operational expenses 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 Kitui 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

Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2020. Management has indicated that the issues have been responded to. However, the matters have remained unresolved as the Senate has not met to deliberate on the same.

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. Irregular Payment of Penalties and Interest

The statement of receipts and payments reflects an expenditure of Kshs.4,118,418 under other payments which, as disclosed in Note 12 to the financial statements, relates to penalties and interest due to late remittance of Pay-As-You-Earn (PAYE) deductions to the Kenya Revenue Authority (KRA). No explanation was provided for failure to remit the PAYE deductions to the Kenya Revenue Authority as required by Section 130 of the Income Tax Act which states Pay As You Earn deducted from employees' earnings should be remitted by the tenth day of the month following the deduction.

In the circumstances, the Management is in breach of the law.

2. Irregular Payment to County Assemblies Forum

During the year under review, an amount of Kshs.4,488,800 was paid to the County Assemblies Forum (CAF) to cater for County Assemblies sports and cultural bonanza and the annual legislative summit. However, CAF is not an establishment under the law and therefore the basis for making the payment could not be ascertained.

Under the circumstances, the propriety and validity of the expenditure of Kshs.4,488,800 could not be confirmed.

3. Non-Compliance with the One Third of Basic Salary Rule

During the year under review, thirteen (13) officers of the County Assembly were paid net salaries that were less than one third (1/3) of their basic salaries. This is contrary to Section 19(3) of the Employment Act, 2007 which states that the total deductions made by an employer from the wages of their employees at any one time should not exceed two thirds of such wages.

Management was in breach of the law, to this extent.

4. Staff Ethnic Composition

A review of the County Assembly's staff establishment for the year under review revealed that, of one hundred and thirty-one (131) or 95% of the employees were from the dominant local community in the County. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from one ethnic community.

Management was in breach of the law, to this extent.

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. Inactive Audit Committee

The County Assembly appointed an Audit Committee of three (3) members on 4 January, 2017. However, minutes of the Audit Committee meetings to show that the committee was robust and active were not provided for audit review. This is contrary to 172(1) of Public Finance Management (County Governments) Regulations, 2015 which requires the Audit Committee to meet at least once in every three months.

In the circumstances, the Audit Committee was dormant and the expected assurance on risks management and internal controls was not realized.

2. Internal Audit Function

The internal audit function reports functionally to the Clerk who is the Accounting Officer of the County Assembly thereby impairing its independent. This is contrary to Regulation 155(1) of the Public Finance Management (County Governments) Regulations, 2015 that stipulates that the Head of Internal Audit shall report functionally to the Audit Committee and administratively to the Accounting Officer to ensure operational independence.

In the circumstances, the independence of the internal audit function and its ability to provide effective oversight over the operations of the County Assembly is in doubt.

3. Lack of Risk Management Policy and Disaster Recovery Plan

The County Assembly did not have a Risk Management Policy, and Disaster Recovery and Business Continuity Plan in place during the year under review. This is contrary to Section 158(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County Government entity to develop risk management strategies to enable the County to identify and manage risks in order to improve on effective and efficient management of public resources.

In the circumstances, County Assembly may be exposed to risk of loss of critical information assets in an event of a disaster.

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 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 to 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

01 October, 2021