

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF KWALE 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 Kwale set out on pages 1 to 40, 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 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 Kwale 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 (Cash Basis) and comply with the County Governments Act, 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in Bank Balance

The statement of financial assets and liabilities and as disclosed under Note 13A to the financial statements reflects a bank balance of Kshs.55,231,226 as at 30 June, 2020. However, the bank balance was arrived at after offsetting an amount of Kshs.368,784 relating to Central Bank of Kenya Development Account cashbook overdraft. This was contrary to Paragraph 48 of the International Public Sector Accounting Standard (IPSAS) No.1 which provides that assets and liabilities, and revenue and expenses, shall not be offset unless required or permitted by a standard.

Consequently, the bank balance of Kshs.55,231,226 as at 30 June, 2020 is inaccurate.

2. Irregular Payment of Compensation of Employees

The statement of receipts and payments and as disclosed under Note 4 to the financial statements reflects compensation of employees' expenditure of Kshs.251,878,861 as at 30 June, 2020. Included in the above amount are personal allowances paid as part of salary of Kshs.92,631,108, out of which Kshs.865,920 relates to subsistence allowances. Further, the personal allowances paid as part of salary include a debit adjustment of Kshs.430,000 in the ledger which was not supported by a journal entry. The Management did not explain why subsistence allowances were captured as personal allowances paid as part of salary or give explanations for lack of the journal vouchers.

Consequently, the accuracy of compensation of employees' expenditure of Kshs.251,878,861 as at 30 June, 2020 could not be confirmed.

3.0 Use of Goods and Services

The statement of receipts and payments for the year ended 30 June, 2020 reflects use of goods and services expenditure of Kshs.314,284,552 and as disclosed in Note 5 to the financial statements. The following issues were identified

3.1 Domestic Travel and Subsistence Allowances

Included in use of goods and service amount is Kshs.314,284,552 and as disclosed in Note 5 to the financial statements is domestic travel and subsistence allowances expenditure of Kshs.110,186,658 out of which an amount of Kshs.3,301,425 was not supported by invitation letters, programs of work, evidence of workshop attendance, reasons for holding meetings out of normal station of work and reports of findings after undertaking benchmarking tours.

In addition, temporary imprests amount of Kshs.59,246,574 advanced to staff and Members of County Assembly were expensed under subsistence allowances account before the respective imprest holders had accounted for or surrendered the same.

Consequently, the accuracy, completeness and validity of domestic travel and subsistence allowances expenditure of Kshs.110,186,658 for the year ended 30 June, 2020 could not be confirmed.

3.2 Foreign Travel and Subsistence Allowances

Included in use of goods and service amount is Kshs.314,284,552 and as disclosed in Note 5 to the financial statements is foreign travel and subsistence allowances expenditure of Kshs.28,560,939 out of which an amount of Kshs.2,644,620 was not supported by training needs assessment, relevant travel documents, certificates of participation, signed attendance registers and reports from seminars and trainings attendance.

Consequently, the accuracy, completeness and validity of foreign travel and subsistence allowances expenditure of Kshs.28,560,939 for the year ended 30 June, 2020 could not be confirmed.

3.3 Training Costs

Included in use of goods and service amount is Kshs.314,284,552 and as disclosed in Note 5 to the financial statements is training expenses of Kshs.24,047,697 which further includes an amount of Kshs.18,149,239 in respect of provision of local and foreign training services. Kshs.4,297,800 was spent on training Members of County Assembly but it was not supported with training needs assessment reports, approval of training, identification of those to be trained and back to office reports.

Consequently, the propriety and validity of training expenses amounting to Kshs.4,297,800 could not be confirmed.

3.4 Other Operating Expenses – Legal Expenses

Included in use of goods and services and as disclosed in Note 5 to the financial statements is other operating expenses of Kshs.23,498,956 out of which an amount of Kshs.12,563,310 is in respect of legal fees paid to private law firms representing the County Assembly on various legal matters. However, the Management did not provide the case files and details of instructions from the County Assembly for representation for audit review. Further, approval and concurrence by the Attorney-General as required by the Attorney-General Circular Ref. AG/CONF/6/E/247 VOL.II of 16 April, 2014 was not provided for audit review.

3.5 Irregular Payments to the County Assembly Forum and the County Assembly Sports Association

Included in use of goods and services and as disclosed in Note 5 to the financial statements is other operating expenses of Kshs.23,498,956. Included in the other operating expenses is Kshs.5,000,000 in respect of County Assemblies Forum (CAF) and Kshs.300,000 in respect of the County Assembly Sports Association (CASA) paid as subscription. The two institutions are not provided for funding under the County Assembly. Further, the expenditure was not budgeted for under the County Assembly during the year under review.

Consequently, the propriety and validity of other operating expenses amount of Kshs.23,498,956 could not be confirmed.

4.0 Acquisition of Assets

The statement of receipts and payments and as disclosed under Note 10 to the financial statements reflects acquisition of assets expenditure of Kshs.175,000,626 as at 30 June, 2020. The following anomalies have been noted:

4.1 Variance with Summary of Fixed Assets Register

The acquisition of assets expenditure of Kshs.175,000,626 differs with an amount of Kshs.175,450,626 disclosed in Annex – 4 (summary of fixed assets register) by an amount of Kshs.450,000.

Consequently, the accuracy and completeness of the acquisition of assets expenditure of Kshs.175,000,626 for the year ended 30 June, 2020 could not be confirmed.

4.2 Lack of Ownership Documents for Land

Included in the acquisition of assets expenditure of Kshs.175,000,626 is expenditure in respect of construction of buildings of Kshs.38,418,158. Included in this amount is Kshs.19,684,358 in respect of construction of fourteen ward offices for Members of County Assembly with cumulative payments amounting to Kshs.73,304,211 as at 30 June, 2020.

However, the Management did not provide ownership documents for the land on which the offices were being constructed.

Under the circumstances, the ownership, custody and safeguard of land on which assets worth Kshs.73,304,211 had been constructed could not be confirmed.

5. Accounts Receivables – Prepayments and Advances

The statement of financial assets and liabilities and as disclosed under Note 14 to the financial statements reflects accounts receivables of Kshs.6,323,440 as at 30 June, 2020. As previously reported all amount includes payment of Kshs.6,018,449 in respect of tax notice by the Kenya Revenue Authority for which Management indicated that this was a direct debit from the Assembly's Central Bank of Kenya Recurrent Account by Kenya Revenue Authority being interest and penalties.

Although the Management indicated that the County Assembly of Kwale had been remitting its tax obligations on time and did not have any outstanding obligations, there was no evidence to confirm that Kenya Revenue Authority had accepted to refund or approved the offsetting of the amount from future tax obligations as claimed by the Management.

Consequently, the recoverability in full of Kshs.6,018,449 in respect of accounts receivables – prepayments and advances as at 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 Kwale 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 comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.936,706,782 and Kshs.743,449,887 respectively resulting to a shortfall of Kshs. Kshs.193,256,895 or 21% of the budget. Similarly, the

County Assembly expended Kshs.741,465,625 against an approved budget of Kshs.936,706,782 resulting to an under-expenditure of Kshs.195,241,156 or 21% of the budget. The revenue shortfall and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

2. Late Exchequer Release

The County Assembly budgeted for Exchequer receipts of Kshs.936,706,782 from the County Treasury during the year under review. However, the County Assembly received an amount of Kshs.142,245,808 during the months of June and July, 2020. The late Exchequer releases of Kshs.142,245,808 may have largely contributed to the under absorption of budget of Kshs.195,241,156 or 21%.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

As required by Article 229(6) of the Constitution, except for the effect of the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, based on the procedures performed, 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. Construction of the County Assembly Complex

The County Assembly commenced the construction of the County Assembly Complex at a contract sum of Kshs.466,892,170. The contract sum was later varied by Kshs.116,723,042 or 25% to Kshs.583,615,212 on 29 March, 2018. Audit review of the terms and conditions of the contract revealed that the project was to be completed by 29 June, 2017. However, the contract period was extended by 78 weeks through letter reference CAK/CL/PROC/VOL2/7 of 20 September, 2018 and for another 48 weeks through letter reference KWL/CA/ADM/CORR/PROC/VOL 2(013) of 16 June, 2020. Management did not provide evidence of the performance bond renewal covering the extension of the contract period.

In addition, audit examination of the Project's Bills of Quantities revealed provisional sums totalling Kshs.192,200,000 for various works which were sub-contracted. However, details of how the sub-contractors were identified, selected and contracted to undertake the works including relevant approval by the Project Manager were not provided for audit verification.

Consequently, value for money has not been realised in the construction of the County Assembly Complex due to the delays in completion of the works.

2. Failure to Observe One Third Staff Establishment Rule

A review of personnel records revealed that, the County Assembly had a staff establishment of sixty-one (61) employees as at 30 June, 2020. Review of the staff establishment revealed that the County Assembly had fifty-one (51) or 84% of the employees coming from the dominant community while the other ten (10) or 16% were from the other communities.

This was contrary to Section 7 of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one third of its staff from the same ethnic community. This is further in contravention of Section 6(1)(e) of the County Government Act, 2012 which requires that in selecting candidates for appointment, the County Assembly Service Board shall consider, the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

Consequently, Management was in breach of law.

3. Telephone Allowances

Audit of payroll records revealed that telephone allowances amounting to Kshs.904,000 were paid to staff of County Assembly during the year under review, contrary to the Salary and Remuneration Commission of Kenya Circular Ref. No. SRC/TS/CGOVT/3/16 of 29 July, 2013.

Consequently, Management was in breach of the guidelines by the Salaries and Remuneration Commission.

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

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, 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

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 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.

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 manner in line with article 229(6) of the Constitution of Kenya 2010.

Those charged with governance are responsible for overseeing County Assembly's 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 skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of 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 County Assembly to express an opinion on 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

12 October, 2021