REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF MIGORI 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 Migori set out on pages 7 to 33, 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 statements of comparison of budget and actual amounts 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, the financial position of the County Assembly of Migori 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. Unreconciled Transfers from County Treasury Balance

As disclosed in Note 1, 2 and 3 to the financial statements, the County Assembly received Kshs.836,834,226, 62,094,147 and Kshs.59,132,610 being recurrent, development and other receipts, respectively all amounting to Kshs.958,060,983 as Transfers from County Treasury being Exchequer Releases during the year under review. However, the financial statements of the County Executive of Migori reflects a consolidated balance of Kshs.1,036,886,081 as transfers to the County Assembly of Migori resulting to an unreconciled and unexplained variance of Kshs.78,825,098.

Consequently, the accuracy and completeness of receipts amounting to Kshs.958,060,983 for the year ended 30 June, 2020 could not be confirmed.

2. Payments Made Outside the IPPD Payroll

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.415,174,805 under compensation of employees which includes an amount of Kshs.408,707,421 in respect of basic salaries for permanent employees and temporary employee wages. The payment constitutes a balance of Kshs.145,810,238 which was paid manually to MCAs and ward staff outside the Integrated Personnel Payroll Database System, IPPD. However, Management did not provide schedules sent to the banks on the two payrolls indicating the names and amounts of the payees. Management did not also give any assurance on the system which is prone to human error or reasons why payment was not made through the existing IPPD platform.

Further, the balance includes an amount of Kshs.20,140,275 paid as wages to one hundred and twenty (120) ward employees engaged in the forty (40) wards. Review of the personnel records maintained by the Human Resources Department revealed that no advertisement for ward office staff was made and therefore the requirements and competencies for the various posts could be confirmed.

In addition, records relating to recruitment process such as applications, shortlisting of candidates, interviews conducted and selection of successful candidates were not provided for audit review.

In the circumstances, the accuracy and propriety of the expenditure amounting to Kshs.415,174,805 for the year ended 30 June, 2020 could not be confirmed.

3. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.520,470,341 in respect of use of goods and services. However, examination of records revealed that payments amounting to Kshs.63,127,020 were not supported as detailed below: -

Item	Expenditure (Kshs.)	Unsupported Balance (Kshs.)	Details
General Operating Expenses	40,689,344	24,639,770	Not supported with schedules, payment vouchers and ledgers
Hospitality Supplies and Services	24,566,955	13,495,615	Not supported with schedules, payment vouchers and ledgers
Training Expenses	15,226,635	15,226,635	supporting schedules, invoices, invitation letters and ledgers
Foreign Travel and Subsistence	13,628,700	9,765,000	invitation letters, work/bus tickets, certificate of attendance, attendance lists, check in registers, boarding passes, copies of passports and back to office reports
Total	**94,111,634**	**63,127,020**	

In the circumstances, the accuracy and validity of the expenditure amounting to Kshs.63,127,020 for the year ended 30 June, 2020 could not be confirmed.

4. Irregular Payments on Rentals of Produced Assets

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.520,470,341 under use of goods and services which includes a balance of Kshs.82,687,500 in respect to rentals of produced assets paid as ward operation expenses. However, Management did not provide expenditure returns and justification for the payments for the rental of offices despite the County Assembly having previously completed its ward offices.

In the circumstances, the propriety of expenditure of Kshs.82,687,500 incurred on rental of produced assets for the year ended 30 June, 2020 could not be ascertained.

5. Unsupported Payments of Acquisition of Assets

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.62,094,147 in respect of acquisition of assets which includes Kshs.29,550,390 for construction of buildings. The balance constitutes an amount of Kshs.13,400,300 paid for the construction of the Speaker's residence. However, Management did not provide supporting documents on the procurement process such as advertisements, evaluation minutes, Bills of Quantities and contract agreements for audit review. Further, Management did also not provide certificates of work done, inspection and acceptance to support the payments.

Physical verification of the project revealed that the contractor had only done the first slab and was not on site.

Consequently, the propriety and value for money of Kshs.13,400,300 spent on the project for the year ended 30 June, 2020 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Migori 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.

Emphasis of Matter

Unsupported Pending Bills

Annex 1 of the financial statements reflects pending bills amounting to Kshs.121,478,922 which were outstanding as at 30 June, 2020. However, the balance was not supported with authentic and verifiable source documents such as invoices, inspection and acceptance reports, delivery notes and ledger. It has not been possible to confirm the existence and obligation on the amounts.

Failure to settle bills in the year for which they relate will adversely affect the implementation of the subsequent year's budgeted programs as the pending bills form a first charge to that year's budget provision.

My opinion is however not modified in respect of the above matter.

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. I have determined that there are no other key audit matters report during the year under review.

Other Matters

1. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.898,928,373 and Kshs.958,060,983 respectively resulting to an over-funding of Kshs.59,132,610 or 6.6% above the budget. Similarly, the County Assembly expended an amount of Kshs.1,002,149,560 against an approved budget of Kshs.898,928,373 resulting to an over-expenditure of Kshs.103,221,188 or 11% of the budget. The over expenditure mostly occurred under use of goods and services and finance costs which overspent by Kshs.112,107,471 and Kshs.2,255,707, respectively.

2. 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, the 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 Ref: 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. Idle Resources - Acquisition of Assets

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.62,094,147 in respect of acquisition of assets which includes an amount of Kshs.29,550,390 for construction of buildings. The balance of Kshs.29,550,390 constitutes payments amounting to Kshs.13,940,732 paid to two (2) contractors for construction of two (2) offices for members of the County Assembly. However, physical verification revealed that the offices have been complete but have not been occupied.

Further, the balance of Kshs.62,094,147 which constitutes an amount of Kshs.20,429,917 for purchase of ICT equipment, software and other ICT assets out of which an amount of Kshs.14,000,000 was made to a contractor for the supply and installation of digital congress and communication system to the County Assembly. However, physical verification revealed that equipment were still lying idle in the store and had not been put to the intended purpose.

Consequently, the County Assembly and the public have not realized value for money on the Kshs.27,940,732 spent under acquisition of assets.

2. Staff Ethnic Composition

Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees in the County Assembly was seventy (70) out of which fifty-five (55) or 78 % were members from the dominant 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".

In the circumstance, Management is 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. Lack of Un-Updated Fixed Assets Registers

Annex 4 - Summary statement of fixed assets to the financial statements reflects a balance of Kshs.378,319,845 in respect of historical cost of assets as at 30 June, 2020. However, fixed asset register maintained by the County Assembly was not up-dated and did not include the values, acquisition dates and historical costs of the fixed assets

In the circumstances, it has not been possible to determine whether the County Assembly has instituted proper mechanism to safeguard the assets.

2. Lack of Risk Management Policy and Report

During the year under review, the County Assembly did not have a risk management policy and there was no documented formal risk assessment from the Internal Audit Unit. This is despite the provisions of Section 153(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 that internal auditors have a duty to give reasonable assurance through the audit committees on the state of risk management, control and governance within the organization.

In the circumstances, it could not be established how the risks were identified, monitored and controlled to ensure correction/mitigation measures were implemented

3. Lack of an Approved Staff Establishment

The County Assembly does not have an approved staff establishment to indicate the authorized staffing levels in position for each category of employee and or any variance thereof. Further, no evidence was provided to indicate that the County Assembly had carried out job evaluation to determine the staff requirements for each category contrary to B.5(2) of the County Public Service Human Resource Manual which states that all vacancies shall be declared in a prescribed format which shall include: the number of vacancies, when the vacancy occurred, whether the vacancy is within the authorized establishment and other relevant details.

In the circumstances, it has not been possible to ascertained whether the County Assembly had engaged the optimal numbers of employees for all categories.

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 such 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.

In preparing the financial statements, Management is responsible for assessing the County Assembly'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 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 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 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 County Assembly 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 ability of the County Assembly 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 County Assembly to cease sustaining 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

16 November, 2021