

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF NAKURU 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 Nakuru set out on pages 1 to 23, which comprise of 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 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 Nakuru 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 Public Finance Management Act, 2012 and County Governments Act, 2012.

Basis for Qualified Opinion

1. Differences Between Financial Statements and IFMIS Balances

Analysis of the balances reflected in the financial statements presented for audit revealed variances with the balances reported in the IFMIS generated Trail Balance as detailed below: -

Components	Financial Statements Figures (Kshs.)	IFMIS Figures (Kshs.)	Variance (Kshs.)
Exchequer Releases	1,168,608,398	1,143,504,790	25,103,608
Compensation of Employees	342,592,838	188,863,730	153,729,108
Use of Goods and Services	568,609,109	341,247,493	227,361,616
Social Security Benefits	0	22,585,004	(22,585,004)
Transfer to other government entities	16,112,711	0	16,112,711
Acquisition of Assets	244,696,859	254,173,360	(9,476,501)
Finance Costs	22,924		22,924
Other Payments	0	88,330,540	(88,330,540)

Components	Financial Statements Figures (Kshs.)	IFMIS Figures (Kshs.)	Variance (Kshs.)
Bank Balances	8,358,986	1,080,932,812	(1,072,573,826)
Cash Balances		3,633,744,038	(3,633,744,038)
Accounts Receivable	310,000	9,812,719	(9,502,719)
Accounts Payable	8,118,714	5,112,785,811	(5,104,667,097)

In the circumstances, the completeness and accuracy of the balances reflected in the financial statements for the year ended 30 June, 2020 could not be confirmed.

2. Unreconciled Compensation of Employees

The statement of receipts and payments and as disclosed under Note 3 to the financial statements reflects compensation of employees amount of Kshs.342,592,838. This was at variance with the reports from the Integrated Payroll & Personnel Database (IPPD) for the year under review which revealed compensation of employees cost of Kshs.339,107,609 resulting to an unexplained and unreconciled variance of Kshs.3,485,229.

Consequently, the accuracy and completeness of the expenditure on compensation of employees amount of Kshs.342,592,838 could not be confirmed.

3. Irregular Payment of Board Allowances to Members of the County Assembly Service Board

The statement of receipts and payments and as disclosed under Note 3 to the financial statements reflects compensation of employees amount of Kshs.342,592,838. Included in the compensation of employees cost are responsibility allowances of Kshs.19,598,000, of which Kshs.2,760,000 was in respect of expenditure on Board allowance for members of the County Assembly Service Board for fifty-three (53) sittings during the period. However, review of Board minutes for the financial year revealed that only eighteen (18) sittings were held while the remaining thirty-five (35) sittings could not be confirmed.

Consequently, the accuracy and validity of the payment of Kshs.19,598,000 Board allowances to Members of the County Assembly Service board for the year ended 30 June, 2020, could not be confirmed.

4. Unreconciled Committee Expense - Sitting Allowances

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an expenditure of Kshs.568,609,109 in respect of use of goods and services. Included in this amount is Kshs.84,835,095 in respect of committee meeting expenses This was at variance with the IPPD system and the clocking system reports of Kshs.86,960,636 and Kshs.78,794,300 respectively, resulting to

unexplained variances of Kshs.2,125,541 and Kshs.6,040,795 with the reported amount in the financial statements;

Further, Members of the County Assembly (MCAs) were compensated for an extra sitting during the month of July, 2019, at a cost of Kshs.1,006,200. This was contrary to the Salaries and Remuneration Commission Circular Ref: No. SRC/TS/CGOVT/3/16 which provides for a maximum of thirty-two (32) sittings per month.

Under the circumstances, the accuracy and completeness of committee meeting expense of Kshs.84,835,095 for the year ended 30 June, 2020, could not be confirmed.

5. Unsupported Foreign Travel

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an expenditure of Kshs.568,609,109 in respect of use of goods and services. Included in this amount is Kshs.42,260,275 in respect of foreign travel and subsistence allowances. Included in the foreign travel and subsistence allowances is an amount of Kshs.9,100,330 and Kshs.12,699,832 in respect of training for Members of County Assembly on Transformational Leadership in a Legislative Framework in Uganda and Management of County Affairs at the Eastern and Southern Africa Management Institute (ESAMI) in Arusha Tanzania respectively. Management did not provide supporting evidence for the expenditure including approval in accordance with Public Service Recruitment and Training Policy.

Under the circumstances, the regularity of Kshs.21,800,162 expenditure on trainings held outside the Country for the year ended 30 June, 2020, could not be confirmed.

6. Ward Operation Costs - Over Expenditure

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an expenditure of Kshs.568,609,109 in respect of use of goods and services. Included in this amount is other operating expenditure of Kshs.113,204,207. This includes ward office operation costs for partisan staff of Kshs.84,205,620. This was at variance with the recomputed amount of Kshs.25,560,054 for the three (3) partisan staff members attached to the seventy-eight (78) Members of County Assembly resulting to an over payment of Kshs.58,645,566. This was contrary to the Commission on Revenue Allocation Circular Ref. CRA/CSO/CMG/9/VOL.V(43) of 28 June, 2018 which limits ward operation costs per year per partisan staff to Kshs.109,231.

Further, the operation costs for partisan staff of Kshs.84,205,620, in respect of Assembly Ward operations was disbursed as temporary imprests to Members of County Assembly personal assistants accounts. However, the respective petty cash registers or cashbooks were not maintained to account for the funds.

Under the circumstances, the accuracy and validity of the reported ward office operation costs of Kshs.84,205,620 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 Nakuru 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 adverse 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. Budget Control and Performance

The statement of comparison of budget and actual amounts-recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.1,242,131,843 and Kshs.1,168,608,398 respectively, resulting to an under funding of Kshs.73,523,445 or 5.9%. Management did not provide explanation for the shortfall in funding which may have negatively impacted on the planned activities for the year thus negatively impacting on service delivery to the residents of Nakuru.

2. Pending Bills

The financial statements and as disclosed under Annex 1 details pending accounts payables of Kshs.90,115,839. However, the following inconsistencies were noted: -

- 2.1. The supporting schedules to the balance indicated an amount of Kshs.55,119,066 resulting to unexplained variance of Kshs.34,996,773;
- 2.2. Further examination of the supporting schedules revealed that, outstanding payables amounting to Kshs.47,729,176 were unsupported by way of invoices and delivery or services notes to confirm receipt of goods / services;
- 2.3. The statement of comparison of budget and actual amounts - recurrent and development combined reflects receipts shortfall of Kshs.73,523,445. This implies that, if the pending bills amount of Kshs.90,115,839 were valid, it would lead to an unauthorized expenditure;
- 2.4. The reported pending bills relating to legal fees amounted to Kshs.66,479,206 while the approved budget for the item during the year was Kshs.27,000,000,

hence resulting to over expenditure of Kshs.39,479,206. This is despite the Assembly having a fully-fledged legal department in place. No satisfactory explanations were given on the need to external lawyers.

In the circumstances, the accuracy and completeness of the pending bills balance of Kshs.90,115,839 as at 30 June, 2020 could not be confirmed.

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-Adherence to a Third of Basic Salary Rule

Examination of the IPPD payroll revealed that eleven (11) officers were paid net salaries below the one third basic salary. This is in contravention of section C.1 (3) of Human Resource Policies and Procedures Manual for the Public Service (2016), which provides that public officers shall not over commit their salaries beyond two thirds (2/3) of basic salary.

To this extent the Assembly was in breach of the human resource policies and procedures.

2. Non-Deduction of Pay as You Earn (PAYE)

Examination of the IPPD payroll for the months of April, May and June, 2020, revealed that there were twenty-three (23) officers who were not subjected to deduction of Pay as You Earn (PAYE). This was contrary to Section 37(1) of the Income Tax Act.

Under the circumstances, the Assembly was in breach of law.

3. Construction of the Speaker's House

As reported in the audit of the financial year 2018/2019, the County Assembly of Nakuru entered into a contract for the construction of executive residential/ speaker's house at a contract cost of Kshs.42,649,273.40. Audit verification revealed unapproved variations of the roofing, swimming pool and the pump house. Also, physical verification revealed that the project was behind schedule even after the extension of the contract period by two (2) months. Further, the contract agreement omitted the completion date.

Under the circumstances, value for money has not been achieved due to the delay on completion of the Speaker's House.

3.1 Committee Meetings Held Outside the Assembly

Included in the committee meeting expenses (sitting allowances) are allowances for meetings held outside the Assembly of Kshs.12,575,400. This is contrary to Section 165 of the County Assembly's Standing Orders which states that, a sitting of a committee shall be held at such place, date and time as shall be determined by the chairperson or on a petition made by at least seven members of that Committee but no meeting of a committee may be held outside the precincts of the Assembly without the approval of the speaker.

Under the circumstances, the County Assembly was in breach of the standing orders.

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 Implementation over Internal Audit Function

Audit review revealed that the work plan for the internal audit function was approved in November, 2019. However, the recommendations from internal audit reports were not implemented despite the Assembly having an Audit Committee.

Consequently, oversight over the work of internal audit was weak.

2. Uncontrolled Fuel and Oils Expenditure

Included in the use of goods and services amount is expenditure on fuel, oil and lubricants of Kshs.2,582,759. However, the fuel usage was not recorded in the

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individual vehicle work tickets. Also, although the County Assembly had a use of fuel card policy in place, the use of the fuel cards was not restricted to specific vehicles.

To this extent, the controls over fuel management are weak.

3. Lack of Risk Management Policy

The Assembly does not have a risk management strategy in place contrary to Regulation 158 (1) (a) and (b) of the Public Finance Management (County Government) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies, which include fraud prevention mechanism and internal control that builds robust business operations.

Under the circumstances, the risk management, development of strategies and controls may not have been implemented in an orderly manner.

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 assessment 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 the Management is aware of the intention to dissolve the County Assembly or 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, the 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 County Assembly's financial reporting process, reviewing the effectiveness of how the Management 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 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

17 November, 2021

