

# **REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF NYAMIRA FOR THE YEAR ENDED 30 JUNE, 2020**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Opinion**

I have audited the accompanying financial statements of the County Assembly of Nyamira set out on pages 1 to 24, which comprise the statement of financial assets and liabilities as at 30 June, 2020, the statement of receipts and payments, statement of cash flows, statement of comparison of budget and actual amounts – recurrent and development combined and budget execution by programmes and sub-programmes for the year then ended, and a summary of significant accounting policies and other disclosures 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, the financial statements present fairly, in all material respects, the financial position of the County Assembly of Nyamira 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 Public Finance Management Act, 2012 and the County Governments Act, 2012

### **Basis for Opinion**

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly Nyamira 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 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 summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 reflects budgeted and actual receipts on comparable basis totalling Kshs.5,733,101,393 and Kshs.661,145,614 respectively, resulting to a shortfall of Kshs.51,961,896 or 7% of the budget. In addition, expenditure records indicate that the County Assembly spent Kshs.662,420,112 against an approved budget of

Kshs.713,107,510 resulting to an under-expenditure of Kshs.50,687,398 or 7% of the budget.

## **2. Pending Bills**

Note 7.10(1) - other disclosures to the financial statements reflects pending account payables totalling Kshs.20,899,580 as at 30 June, 2020. Failure to settle bills during the year in which they occur distorts the financial statements for that year and adversely affects provisions for the subsequent year to which the bills have to be charged.

## **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**

#### **1.0 Acquisition of Assets**

##### **1.1 Delay in Construction of Office Building**

Expenditure records examined indicated that the Management paid Kshs.33,207,798 to a contractor hired to build a six-floor office building for Members of the County Assembly and staff. The contract valued at Kshs.367,000,000 was to be executed in one hundred fifty-six (156) weeks, or three years from 13 June, 2018 to 13 June, 2021.

The work schedule had indicated that the contractor would be building the fifth floor by December, 2020. However, inspection carried out during the course of the audit indicated that construction works had only been done up to the second floor. Further, the contractor was not on site and no satisfactory explanation was provided by Management for his absence.

In view of these issues, the offices may take longer than expected to be completed and will therefore delay optimal service delivery and value for money expected of the Project.

##### **1.2 Delayed Completion of Car Park and Related Works**

Expenditure records examined indicated that a sum of Kshs.5,003,148 was paid to a contractor hired to build a car park, perimeter fence, access road, gate and gate-house under a contract valued at Kshs.27,625,516. The contract agreement was signed on 24 June, 2016 and was to be executed in six months up to 24 December, 2016. However, by December, 2020, four years after the end of the contract period, substantial works on

the perimeter fence were yet to be done. No adequate explanation was provided by Management for the delayed execution of the project.

Consequently, all the utility expected of the project has not been realized.

## **2.2 Irregular Salary Deductions**

Examination of payroll records indicated that salaries paid to eight (8) employees were below one-third of their respective net salaries. Salary deductions were therefore made contrary to Section 19(3) of the Employment Act, 2007 which prohibits deductions in excess of two-thirds of an employee's net salary. No explanation was provided by Management for allowing the deductions that placed the officers at the risk or pecuniary embarrassment.

## **2.3 Extended Acting Appointment**

Personnel records examined indicated that the Clerk to the County Assembly was appointed on 3 April, 2018 in an acting capacity. At the time of the audit in December, 2020, he had been acting for thirty-three (33) months contrary to Section C.14(1) of Public Service Commission Human Resource Policies and Procedures Manual, 2016 which prescribes six months as the longest period that a public servant may act in any position.

## **2.4 Appointment of Unqualified Staff**

Examination of the staff records indicated that four (4) officers namely, Director of Internal Audit, Director Legal Research, Director Human Resources and Director Library Services, did not meet the minimum professional requirements for their respective positions as set out in the County Assembly's Scheme of Service. Further, there was no evidence that suitability tests or interviews were carried out to assess whether the officers had the skills and competencies required to serve in their respective positions.

Consequently, the appointment of the officers by Management may not be valid.

## **2.5 Unauthorized Positions**

A review of the personnel records indicated that only one position for Chief Accountant and Senior Sergeant-at-Arms respectively was provided for in the establishment. However, at the time of the audit, each of the two posts had three (3) officers in position and therefore the additional four positions were not authorized.

Consequently, the four positions were irregular and may have resulted in needless use of public funds in payment of salaries and emoluments to the respective officers.

## **2.6 Filled Positions Not in the Approved Staff Establishment**

Examination of the County Assembly's Integrated Personnel and Payroll Database (IPPD) for the month of June, 2020 and the approved staff establishment, revealed one hundred and thirty-six (136) filled posts were not in the approved staff establishment.

Consequently, the legality of the positions was doubtful and further, the personal emoluments and other expenses spent on the respective staff were irregular.

## **2.7 Over-Employment of Ward Staff**

Examination of personnel records further revealed that each of the twenty (20) elected Members of the County Assembly (MCAs) recruited and appointed four (4) employees to serve in the Wards. However, Circular Ref CRA/CSO/CGM/18/Vol. 8/ (1) of 11 May, 2015 issued by the Commission for Revenue Allocation had authorized appointment of only three (3) employees for each Ward.

Consequently, by facilitating the extra recruitments and appointments, Management breached regulations set on prudent use of public resources.

## **2.8 Absence of Ethnic Diversity in Staff Establishment**

Examination of personnel records indicated that the County Assembly had 223 employees out of whom 222 or 99.9% were members of the ethnic community dominant in the County. Section 65 (1) of the County Governments Act, 2012 provides that at least thirty percent (30%) of the vacant posts at entry level be filled by candidates who are not from the dominant ethnic community in a County.

In the circumstance, the County Assembly is in breach of the law on promotion of ethnic diversity in employment.

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 Approved Internal Audit Charter and Plan**

Review of records on the Internal Audit Unit indicated that during the year under review, the Unit operated without an approved annual activity plan, Internal Audit Charter and approved budget. Further, the appointment of the Head of the Unit done during the year was not approved by the Audit Committee as required in Paragraph 3.3.5 of the Kenya Gazette Notice No.2690 dated 15 April, 2016.

In view of these constraints, the Unit was not properly set up and facilitated and therefore, could not carry its the roles and responsibilities in an effective way.

### **2. Delay in Appointment of Audit Committee**

During the year under review, the Accounting Officer appointed a new Audit Committee after the term of the previous one expired. However, the new Committee was inducted eleven months after it was appointed and only assumed office in December, 2019. The committee was Gazetted in September, 2020.

In addition, personal records on the appointees were not made available for audit and as a result, their qualifications and suitability was not confirmed against requirements set in the Kenya Gazette Notice Vol. CXVII- No. 40 of 15 April, 2016.

In view of these omissions, oversight and governance in the County Assembly may not have been properly established during the year under review.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. These standards require that I plan and perform the audit to obtain assurance about whether the 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 intention to dissolve the County Assembly.

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 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**

**28 October, 2021**