REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF THARAKA NITHI 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 Tharaka Nithi set out on pages 1 to 22, 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 County Assembly of Tharaka Nithi 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 Qualified Opinion

1.0 Cash and Bank Balances

As disclosed in Note 8A to the financial statements, the statement of financial assets reflects an amount of Kshs.24,428 in respect of cash and bank balances as at 30 June, 2020. However, the certificate of bank balance provided for audit review reflects Kshs.11,620 resulting to an unexplained and unreconciled variance of Kshs.12,808.

In the circumstances, the validity and accuracy of the Kshs.24,428 in respect of cash and bank balances as at 30 June, 2020 could not be ascertained.

2.0 Unsupported Expenditures - Use of Goods and Services

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.155,909,381 in respect of use of goods and services. Review of records revealed that the balance constitutes expenditure amounting to Kshs.12,717,158 under foreign travel and subsistence which includes an amount of Kshs.1,028,273 whose supporting documents including payment vouchers were not provided for audit review.

In the circumstances, the accuracy and propriety of the expenditure amounting to Kshs.1,028,273 could not be ascertained.

3.0 Unsupported Expenditure - Acquisition of Assets

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.15,025,372 in respect of acquisition of assets which includes Kshs.543,310 spent on purchase of Information and Communication Technology (ICT) equipment, software and other ICT assets, installation of internet mast and testing of internet. However, supporting documents including approved requisition, quotations, certificate of completion were not provided for audit review.

In the circumstances, the propriety and accuracy expenditure 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 Tharaka Nithi 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

I draw your attention to Note 7.10 – Other disclosures to the financial statements which reflects an amount of Kshs.40,894,958 (2019: Kshs.10,517,225) in respect of outstanding pending bills as at 30 June, 2020. Available records indicate that balance brought forward was cleared during the year and the Kshs.40,894,958 represents the outstanding bills for the year under review.

However, creditors' ledgers were not provided to ascertain the creditors' movement within the year and whether the Kshs.10,517,225 paid during the year was eligible. Further, the additional pending bills of Kshs.40,894,958 relating to supply of goods and services were not supported by payment vouchers and certificates of work done.

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

My opinion is however not qualified 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. There are no other key audit matters to report during the year under review.

Other Matter

1.0 Budgetary Control and Performance

Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.413,650,000 and Kshs.357,770,800 respectively, resulting to an under-funding of Kshs.55,879,200 or 14% of the budget. Similarly, the County Assembly expended an amount of Kshs.357,137,470 against an approved budget of Kshs.413,650,000 resulting to an under-expenditure of Kshs.56,512,530 or 14% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

2.0 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 procedures performed, except for the matters described in the 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 Compensation of Employees

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.176,965,725 in respect of compensation of employees which includes a balance of Kshs.266,350 in respect of salary and allowances paid to a security warden. Review of documents provided for audit review revealed that the County Assembly Service Board renewed employment contract for the security warden with effect from 1 February, 2020 for a period of three years. Review of the payroll and personal file provided for audit review revealed that as at the time of the contract renewal, the employee had attained the age of 60 years. However, no evidence was provided for audit review to confirm why the contract was renewed contrary to Section D.21 of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which stipulates that all officers shall retire from the service on attaining the mandatory retirement age of 60 years or 65 years for persons with disabilities and/or as may be prescribed by the Government from time to time.

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

2.0 Non-Compliance with the One Third of Basic Salary Rule

During the year ended 30 June, 2019, three (3) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. Management has not given explanation for failure to comply with the policy.

In the circumstances, the County contravened Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 as this may expose the staff to pecuniary embarrassment.

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

3.0 Non-Compliance with the Public Procurement and Asset Disposal Act, 2015 – Use of Goods and Services

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.155,909,381 in respect of use of goods and services. A review of the procurement process and documents revealed the following unsatisfactory matters:

3.1 Procurement Outside the Procurement Plan

The balance includes an amount of Kshs.1,286,800 spent under printing, advertising and information supplies and services. However, review of the procurement plan revealed that Kshs.920,120 out of the Kshs.1,286,800 was spent on procurement of goods and services that were not included in the procurement plan for the year ended 30 June, 2020 contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015 and Section 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditures shall be within the approved budget of the procuring entity and shall be planned through an annual procurement plan. The regulations also stipulate that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible accounting officer, based on allocations and allotments from approved budgets.

3.2 Failure to Append Signatures on Documents

Further, the balance constitutes an amount of Kshs.18,213,711 in respect of insurance costs which further includes Kshs.2,463,711 and Kshs.15,000,000 paid to two suppliers for group personal accident cover, work injury cover, group life cover and medical covers respectively, totalling to Kshs.17,463,711. However, review of tender opening committee minutes revealed that members did not initial, append their signatures, indicate their full names and designations on the tender documents contrary to Section 78(11)(a) and (b) of Public Procurement and Asset Disposal Act, 2015 which stipulates that each member of the tender opening committee shall initial each page of the minutes and append his or her signature as well as initial to the final page of the minutes indicating their full name and designation. Review of the tender evaluation minutes revealed that one (1) out of the three (3) members did not appended his signature on the evaluation report contrary to Section 80(7) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that the evaluation report shall be signed by each member of the evaluation committee while signed professional opinion to the accounting officer on the procurement proceedings was not provided for audit review contrary to Section 84(1) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that the head of procurement shall, alongside the report to the evaluation committee, review the tender evaluation report and provide a signed professional opinion to the accounting officer on the procurement proceedings.

3.3 Failure to Disclose Percentage of Share Holding

Review of tender documents provided for audit revealed that one (1) supplier had three (3) shareholders from Netherlands out of ten (10) shareholders. However, percentage of their shareholding was not disclosed. It was therefore not possible to confirm that the evaluation complied with Section 86(2) of Public Procurement and Asset Disposal Act, 2015 which stipulates that citizen contractors, or those entities in which Kenyan citizens own at least fifty-one per cent shares, shall be entitled to twenty percent of their total score in the evaluation, provided the entities or contractors have attained the minimum technical score.

3.4 Hospitality Supplies and Services

The balance constitutes an amount of Kshs.14,288,050 spent in respect of hospitality supplies and services which includes Kshs.3,996,200 paid as allowances for retreats, report writing and E-legislative & Information and Communication Technology (ICT).

However, the retreats for report writing and E-Legislative & ICT were held in Mombasa, Embu and Nairobi instead of precincts of the County Assembly contrary to Section 12 of the National Treasury Circular No.20/2015 of 4 November, 2015 which stipulates that an accounting officer shall ensure that all workshops and retreats with majority of participants drawn from one duty station are held within the precincts of the duty station.

3.5 Training Expenses

The balance includes payments amounting to Kshs.765,400 paid as allowances to five (5) Members of the County Assembly (MCAs) and ten (10) members of staff for attending a three (3) day retreat at a Nairobi hotel for deliberation on various plans, policies, manual and supplementary budget. However, the retreat was held in Nairobi instead of the precincts of the County Assembly contrary to Section 12 of the National Treasury Circular No.20/2015 of 4 November, 2015 which stipulates that accounting officer shall ensure that all workshops and retreats with majority of participants drawn from one duty station are held within the precincts of the duty station.

3.6 Office and General Supplies and Services

Further, an amount of Kshs.12,594,095 was spent in respect of office and general supplies and services which further includes payments amounting to Kshs.746,000 paid to two (2) suppliers for supply of ink cartridges and plotter cartridges. However, review of the quotations revealed that the County Assembly split the quotations number TNCA/QT/006/19-21 between the two (2) suppliers.

Review of updated list of registered suppliers revealed that, one (1) of the suppliers was not in the updated list of registered suppliers. Further, approved requisition and professional opinion were not provided for audit review.

In addition, included in Kshs.12,594,095 was Kshs.349,050 paid to a supplier for supply of stationeries. However, review of the tender evaluation committee minutes revealed that the committee consisted of three (3) members of staff from procurement department contrary to Section 46(4)(b) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that an established evaluation committee shall consist of between three and five members appointed on a rotational basis comprising heads of user department and two other departments.

3.7 Failure to Publish and Publicize Awarded Tender

During the financial year under review, the Fund did not prepare, publish, publicize all contract awards and submit them to Public Procurement Regulatory Authority as required by Section 138(1) and (2) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that the accounting officer of a procuring entity shall publish and publicise all contract awards on their notice boards at conspicuous places, and website if available within a period as prescribed.

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

4.0 Non-Compliance with the Public Procurement and Asset Disposal Act, 2015 – Acquisition of Assets

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.15,025,372 in respect of acquisition of assets. The balance constitutes an amount of Kshs.833,400 in respect of purchase of office furniture and equipment which includes Kshs.799,400 paid to a supplier for supply of office furniture. However, review of the evaluation committee minutes revealed that only two (2) out of the three (3) members appended their signatures on the evaluation minutes. Further, initials, full names and designation of the evaluation committee members were not included in the final page of the evaluation committee minutes contrary to Section 78(11)(a) and (b) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that each member of the tender opening committee shall initial each page of the minutes and append his or her signature as well as initials to the final page of the minutes indicating their full name and designation.

In addition, quotations received were not assigned identification numbers by tender opening committee contrary to Section 78(5) of the Act which stipulates that the tender opening committee shall assign an identification number to each tender and record the number of pages received. In addition, review of documents provided revealed that two different evaluation committee teams were appointed to evaluate the same tender. Review of the tender evaluation committee minutes revealed that the committee consisted of three (3) members of staff from procurement department contrary to Section 46 (4) (b) of the same Act which stipulates that an evaluation committee established, shall consist of between three and five members appointed on a rotational basis comprising heads of user department and two other departments.

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

5.0 Compliance with the Public Finance Management (County Governments) Regulations, 2015

i. Payment to County Assembly Forum

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.155,909,381 in respect of use of goods and services which includes Kshs.25,906,590 in respect of other operating expenses out of which Kshs.2,800,000 was paid as membership subscription to County Assembly Forum which is a private body. However, no evidence was provided for audit that the expenditure was budgeted for in line with Section 31(a) and 50(2)(3) of Public Finance Management (County Governments) Regulations, 2015 which stipulates that all expenditure shall be entered into the budget and shall be committed only against approved procurement plan based on allocation and commitments. Further, specific activities being funded and the basis for such payment were not provided for audit review.

ii. Accounts Receivables – Outstanding Imprest

Annex 5 to the financial statements reflects Kshs.1,382,729 in respect of account receivables (outstanding imprests) as at 30 June, 2020 which relates to imprest issued between 24 June, 2019 and 25 June, 2020. However, the imprest had not been surrendered or accounted for as at the time of the audit in October, 2020 which is more than four (4) month since imprest was issued contrary to Section 93(5) of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. Further, explanation on measures taken to recover the long outstanding imprests was not provided for audit review.

In the circumstances, 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 matter 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

Information and Communication Technology

Review of the County Assembly’s Information and Communication Technology (ICT) environment revealed that there was no formal approved ICT policy in place during the year ended 30 June, 2020. The policy would have included data security and disaster recovery plans. Further, the ICT organization structure was not provided for audit review.

In the circumstances, the security and reliability of the County Assembly's data including the Management Information System could not be confirmed.

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, 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 either intends 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 County Assembly 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 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 with limited assurance as to 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 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 noncompliance. 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's 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.

CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

08 December, 2021