

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

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of County Assembly of Vihiga set out on pages 1 to 21, which comprise of the statement of financial assets and liabilities as at 30 June, 2020, statement of receipts and payments, statement of cash flows and the 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 matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the County Assembly of Vihiga 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 County Governments Act, 2012.

### **Basis for Qualified Opinion**

#### **1. Use of Goods and Services**

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.198,237,783 on use of goods and services. Examination of available records revealed the following unsatisfactory matters:

##### **1.1. Unauthorised Expenditure - Foreign Travel and Subsistence**

The balance includes a balance of Kshs.16,849,650 in respect of foreign travel and subsistence against an approved budget of Kshs.2,960,000 resulting to an over-expenditure of Kshs.13,889,659 or over 469% of the approved budget. Examination of payment vouchers and accompanying supporting documents revealed that the amount was paid to Members of County Assembly on diverse dates. However, the Speaker and the Clerk to the Assembly were not served with a written notice indicating the destinations, dates of intended travel and period of absence from Kenya and contacts of the members during the period of absence.

## **1.2. Overpayment to an Arbitrator**

Further, the balance includes an amount of Kshs.10,452,731 under other operating expenses which constitutes Kshs.2,692,029 paid to an arbitrator in a dispute between the County Assembly and a company which had been awarded a tender for the construction of boundary wall and renovations of office blocks during the 2013/2014 financial year. The arbitrator ought to have been paid an amount of Kshs.1,942,120 but was paid an amount of Kshs.2,692,092 leading to overpayment by Kshs.749,972.

In the circumstance, the County Assembly may have lost Kshs.749,972 as overpayment for the year ended 30 June, 2020 and Management has not instituted recovery strategy to recover the loss or determine the officer(s) who occasioned the loss.

## **1.3. Unsupported Expenditure**

In addition, the balance includes domestic travel and subsistence allowance balance of Kshs.112,338,600 which constitutes an amount of Kshs.6,774,600 paid to the Clerk of the Assembly which was not supported with relevant documents such as signed payment schedules, invitation letters, attendance registers and approval by the Speaker of the County Assembly.

Consequently, the propriety in the utilisation of public resources amounting of Kshs.24,374,159 utilised under use of goods and services could be confirmed.

## **2. Unsupported Transfers to other Government Entities**

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.77,373,262 in respect of transfers to other government entities. The balance includes an amount of Kshs.50,320,797 paid as tax arrears to Kenya Revenue Authority. However, review of records indicated that the Assembly owed KRA due tax of Kshs.42,320,796 resulting to an overpayment of Kshs.8,000,000.

Further, the balance includes an amount of Kshs.4,000,000 being transfers to County Treasury. However, confirmation or evidence that the amount was received by the County Treasury was not provided for audit review.

In the absence of any explanation, the propriety of the expenditure amounting to Kshs12,000,000 under other grants and transfers could not be confirmed.

## **3. Irregular Payment of Salary Advances**

As disclosed in Note 2 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.312,663,024 in respect of compensation of employees which includes basic salaries amounting to Kshs.178,447,275. However, a review of the expenditure revealed that Management had issued salary advances to staff members amounting to Kshs.3,114,000. Examination of personnel records revealed that officers

were issued with salary advances in excess of the employees' net salaries. Further, most of the salary advances were issued to Members of County Assembly, MCAs who are not permanent staff of the organization while in some instances, salary advances request forms did not reflect amount to be recovered and recovery period making the applications incomplete.

In the circumstances, the propriety of the expenditure amounting to Kshs12,000,000 under other grants and transfers 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 Vihiga Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

## **Key Audit Matters**

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

## **Other Matter**

### **1. Pending Bills**

According to Note 11.1 and 11.2 to the financial statements, the County Assembly had pending accounts payables totalling Kshs.77,537,527 as at 30 June, 2020. A review of the records indicates that the amount relates to amounts borrowed from Car Loan and Mortgage Fund which includes long outstanding car loan and mortgage arrears totalling to Kshs.51,937,527 brought forward from 2018/2019. Management had not explained why the bills were not settled during the year when they occurred and the County Assembly risks incurring additional loss in form of interest and penalties arising from continued delay in payment.

Failure to settle bills during the year in which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

## **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, Management had not resolved the issues or included any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular.

### **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 the 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-Compliance with the One Third of Basic Salary Rule**

During the year ended 30 June, 2019, six (6) employees earned a net salary below one third (1/3) of the basic salary in the month of September, 2020, contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management has not given explanation for failure to comply with the policy as well as the Employment Act 2007 Section 19 (3), which does not permit employees to commit their salaries in excess of two-third of their basic salaries. This may expose the staff to pecuniary embarrassment.

Consequently, the Management is in breach of the law.

##### **2. Staff Ethnic Composition**

A review of the County Assembly's Human Resource records revealed a total of two hundred and fifteen (215) employees out of which two hundred and six (206) officers or 96% are from the dominant community in the County. This is contrary to Section 65(1)(e) of the County Governments Act, 2012 which provides that the County public service board should ensure that at least thirty percent (30%) of the vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community in the county.

Consequently, the Management is in breach of the law.

### **3. Payments for Activities Outside the County Assembly Precincts**

During the year under review, Management paid Kshs.8,760,500 to the County Assembly leadership and secretariat for activities outside the County Assembly precincts. These activities were carried out without the approval of the Speaker contrary to section 169 of the County Assembly Standing orders which states that any 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 County Assembly without the approval of the Speaker.

Consequently, 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. Un-Surrendered Staff Imprest**

As disclosed in Annex 4, the statement of financial assets and liabilities reflects a balance of Kshs.4,617,391 in respect of accounts receivables - outstanding imprests. The imprest register was not updated to indicate the current outstanding imprest balance and the purpose was not disclosed while copies of imprest warrants were not provided for audit review. The imprest schedule provided for audit revealed that imprests were issue between July, 2016 to June, 2020 but had not been surrendered by 30 June, 2020

Consequently, management has not institute effective and efficient internal controls to safeguard public resources.

## **2. Lack of an Effective Internal Audit Unit**

The County Assembly Internal Audit Unit is manned by two officers who were appointed separately to the position of internal auditor in 2014 without the determination of who was in-charge. However, the evidence provided during the time of audit revealed that there was no Head of Internal Audit Unit and the Audit Committee had not been constituted.

Consequently, I'm unable to confirm whether the County Assembly has an effective and a functional Internal Audit function to guide and oversee the operation of the Assembly.

## **3. Weak Information Communication Technology Controls**

Audit review of the County Assembly information and communication Technology (ICT) revealed that the Assembly did not have a data recovery plan and IT Security Policy which are vital in effective and efficient management of the IT resources. The County Assembly does not have an IT Steering Committee to carry out oversight function and formulation of policies and ensure that the IT department is in place to deliver its organizational objectives. It was also noted that most records were manually maintained.

Consequently, the County Assembly operations are not efficiently and effectively monitored or controlled and the risk of loss of data and other resources would occur and remain undetected.

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 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 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 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 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**

**19 October, 2021**