

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF WEST POKOT 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 West Pokot set out on pages 8 to 32, 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 West Pokot 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. Presentation and Inaccuracies of the Financial Statements

A review of the financial statements submitted for audit review revealed the following anomalies:

- i) The statement of financial assets and liabilities reflects a negative balance of Kshs.7,174,842 in respect of transfers to County Revenue Fund (CRF) which was not supported or explained.
- ii) The statement of cash flows reflects an amount of Kshs.22,424,842 being transfer to other government entities which differs with the amount of Kshs.15,250,000 reflected in the statement of receipts and payments. The resulting variance of Kshs.7,174,842 was not explained or reconciled.
- iii) The statement of comparison of budget and actual amounts – recurrent and development combined reflects actual on comparable basis of other receipts amount of Kshs.58,154,438 which differs with the nil balance reflected in the statement of receipts and payments.
- iv) The statement of financial assets and liabilities reflects a fund balance brought forward amount of Kshs.8,732,542 which is at variance with the audited balance of Kshs.7,174,842 as at 30 June, 2019. The resulting variance of Kshs.1,557,700 was not explained or reconciled.

Under the circumstances, the accuracy and completeness of the financial statements could not be ascertained.

2. Variance Between IFMIS Report and Statement of Receipts and Payments

The statement of receipts and payments for the year ended 30 June, 2020 reflects total payments of Kshs.625,111,292 which is at variance with IFMIS Report total payments of Kshs.653,272,452. The resulting variance of Kshs.28,161,160 was not explained or reconciled.

Under the circumstances, the accuracy and completeness of the total payments amount of Kshs.625,111,292 for the year ended 30 June, 2020 could not be confirmed.

3. Unsupported Expenditure - Fuel, Oil and Lubricants

The statement of receipts and payments reflects an expenditure of Kshs.253,702,967 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.8,173,889 on fuel, oil and lubricants. However, Management did not provide for audit review the fuel register and the fuel drawn using a few detail orders was not recorded in the motor vehicle work tickets. Further, the signed contract agreements for the supply of fuel were not dated.

Under the circumstances, the accuracy, validity and propriety of fuel, oil and lubricants expenditure of Kshs.8,173,889 could not be confirmed.

4. Un-Authorized Expenditures

The statement of receipts and payments reflects an expenditure of Kshs.276,771,847 under compensation of employees which includes an expenditure of Kshs.154,685,174 which was not authorized and approved by the AIE holder and Accounting Officer or any other officer delegated in writing by him. Similarly, included in the expenditure of Kshs.11,453,997 under social security benefits is an expenditure of Kshs.6,294,301 which was also not approved and authorized by the AIE holder and Accounting Officer or any other officer delegated in writing by him.

Under the circumstances, the accuracy, validity and propriety of the expenditure of Kshs.160,979,475 could not be confirmed.

5. Cash and Cash Equivalent

The statement of financial assets and liabilities as at 30 June, 2020 reflected a bank balance of Kshs.428,896. However, relevant documents for two (2) bank accounts as at 30 June, 2020 were not provided for audit review as detailed below:

	Bank Account	Documents not Provided and Remarks	Account Balance (Kshs.)
1	Kenya Commercial Bank Account Number 1144041589	i) Bank Reconciliation Statement ii) Certificate of Bank balance iii) The Cash Book has no description of expenditure items. iv) Entries in Cash Book not dated v) The Cash Book not balanced and closed on a daily basis.	Nil
2	Central Bank of Kenya Account Number 1000243333	i) Bank statements ii) Bank Reconciliation Statement iii) Certificate of Bank balance iv) The Cash Book has no description of expenditure items. v) Entries in cash book not dated. vi) The Cash Book not balanced and closed on a daily basis.	428,896

Under the circumstances, the accuracy and completeness of the bank balance of Kshs.428,896 as at 30 June, 2020 could not be confirmed.

6. Lack of Assets Register

Annex 4 to the financial statements - summary of fixed assets register indicates that the County Assembly had fixed assets with a historical cost of Kshs.454,219,013 as at 30 June, 2020. However, the fixed assets register was not provided for audit review making it difficult to ascertain the nature, number, physical location and fair value of the County Assembly's assets.

Consequently, the accuracy and completeness of the fixed assets balance of Kshs.454,219,013 as at 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 West Pokot County Assembly 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. Budgetary Control and Performance

The statement of comparison of budget and actual amounts-recurrent and development combined reflects an approved expenditure budget of Kshs.704,482,408 against actual expenditure of Kshs.625,111,292 resulting in an overall under expenditure of Kshs.79,371,116 or 11%. The under expenditure mainly occurred on development budget where an amount of Kshs.58,154,438 was spent against the budgeted amount of Kshs.105,815,273 resulting to an under expenditure of Kshs.47,660,835 or 45%. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of West Pokot County.

2. Pending Bills

As disclosed in Note 3.9 on other disclosures to the financial statements, the County Assembly had pending bills totalling Kshs.16,428,126 which were due to suppliers of goods and services as at 30 June, 2020. However, an amount of Kshs.9,177,000 of the pending bills was not supported by any documentary evidence. Further, the pending bills of Kshs.16,428,120 included an amount due to the prison industry of Kshs.3,000,000 for furniture not supplied. Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they 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. Domestic Travel and Subsistence Allowances

The statement of receipts and payments reflects an expenditure of Kshs.253,702,967 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.139,434,710 incurred on domestic travel and subsistence allowances. The latter balance includes an amount of Kshs.2,402,400 incurred on carrying out Ward Offices spot check, sensitizing the constituents on Corona Virus, determining the distance in kilometers of the homes of nominated Members of County Assembly and establishing the pieces of land for construction of Ward Offices. The amount was irregularly paid to the members of the whole house, two Board Members and members of staff instead of a House Committee. Further, determination of the distance

in kilometres of the homes of nominated Members of County Assembly had already been done by another team which had incorporated the County Works Officer.

Under the circumstance, the validity and propriety of the expenditure of Kshs.2,402,400 could not be confirmed.

2. Ethnic Composition of Employees

A review of staff establishment records revealed that, the County Assembly had ninety-six (96) employees out of which eighty-six (86) or 90% belonged to one ethnic community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one third of its staff from the same ethnic community.

Consequently, the County Assembly was in breach of the law.

3. Expenditure on Salaries, Emoluments and Benefits

The County Assembly spent a total of Kshs.288,225,844 on compensation of employees and benefits (compensation of employees – Kshs.276,771,847 and social security benefits – Kshs.11,453,997) during the year under review. This represents 46% of the total receipts of Kshs.623,982,488 on compensation of employees and benefits. Consequently, the compensation of employees cost exceeded the set threshold of 35% stipulated under Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015.

Consequently, Management is in breach of the law.

4. Irregular Salary Deductions

A review of the payroll revealed that some members of staff earned net salaries less than a third of their basic pay against the requirement of Section 19(3) of Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay.

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

5. Irregular Payment of Transport Allowances to Members of the County Assembly

Included in the compensation of employees' expenditure of Kshs.276,771,847 is an amount of Kshs.7,241,298 relating to transport allowances paid to Members of County Assembly. However, the transport allowances were not paid through the payroll and in accordance with the approved rates as provided for in the Salaries and Remuneration Commission Kenya Gazette Vol.CXIX-No.89 of 7 July, 2017.

The Gazette Notice requires payment of transport allowance for Members of the County Assembly to be clustered into four zones and Members of the County Assembly to be paid a fixed monthly transport allowance through the payroll. Further, the transport allowances paid were not taxed.

6. Irregular Payment of Sitting Allowances

The compensation of employees' expenditure of Kshs.276,771,847 also includes sitting allowances of Kshs.7,260,500 paid to Members of County Assembly and County Assembly Service Board, which were paid outside the payroll without any justification from the accounting officer. Further, Pay As You Earn (PAYE) of Kshs.5,634,150 deducted from the sitting allowances was not remitted to the Kenya Revenue Authority.

7. Irregular Employment of Ward Staff

A review of personnel records revealed that each Ward Office had six employees contrary to the requirement of the Commission on Revenue Allocation Circular Ref No: CRA/CSO/CMG/9/VOL.V (43) of 3 August, 2020 which provides for employment of three (3) employees per Ward Office. Further, the ward employees were each being paid salaries below the approved minimum wage of Kshs.13,572.90 per month.

8. Irregular Expenditure on Hotels and Conference Facilities

The statement of receipts and payments reflects an expenditure of Kshs.253,702,967 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.12,710,770 relating to training expenses. The latter balance includes an expenditure of Kshs.7,231,550 incurred on hiring hotels and conference facilities. However, the hotels and conference facilities were directly procured and the procured services were not included in the procurement plan for the year under review. Further, the County Assembly did not have an annual training plan, training needs assessment was not done and no reports were produced after the trainings were completed.

In addition, procurement of hotel and conference facilities was done outside IFMIS against the requirement of Treasury Circular No. 24/2015 dated 21 December, 2015 which provided guidelines on the use of E-Procurement in the County Governments.

9. Acquisition of Assets

a. Construction of County Assembly Restaurant and Car Park

As previously reported, the County Assembly entered into a contract with a firm for the construction of a restaurant and a car park on 3 January, 2014 at a contract sum of Kshs.36,685,718. An expenditure of Kshs.15,765,679 was incurred on the project in the financial year 2014/2015 but payment vouchers were not submitted for audit verification. During the year under review, project records including payment vouchers, certificates of completion issued, status report of the project were still not provided for our audit verification. Further, a physical verification of the project revealed that it has stalled and there was no budgetary provision in respect of the project in the 2019/2020 financial year.

Consequently, the objectives of the project have not been achieved and residents of West Pokot County may not have obtained value for money spent on the project as planned.

b. Construction of Buildings

The statement of receipts and payments reflects an expenditure of Kshs.67,920,438 under acquisition of assets which, as disclosed in Note 10 to the financial statements, includes an amount of Kshs.58,154,438 relating to construction of buildings. The latter balance includes an amount of Kshs.56,154,439 paid during the year for construction of a modern assembly complex. The contract was awarded on 6 January, 2015 at a price of Kshs.358,392,421.

The contractor has been paid a total of Kshs.338,151,067 or 94% of the contract sum for certified works against 76% of work done as at 30 June, 2020. The amount paid include prime cost of Kshs.34,000,000 which has not been accounted for. The completion/interim certificates were issued upon valuation by the quantity surveyor contrary to Section 48(4) of the Public Procurement and Assets Disposal Act, 2015 which requires the Inspection and Acceptance Committee to ensure that the correct quantity of the goods is received, the goods, works or services meet the technical standards defined in the contract, the goods, works or services have been delivered or completed on time, or that any delay has been noted, all required manuals or documentation have been received and issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

However, the project is behind schedule as it was supposed to be completed by February, 2018. Management has not claimed liquidated damages from the contractor. The Management has explained that the execution of the contract was suspended by the Governor of West Pokot through a letter dated 19 September, 2017 to facilitate a special audit of all contracts. The basis of the termination of the contract and the termination letter by the Governor were not provided for audit verification.

c. Purchase of Motor Vehicles and Other Transport Equipment

Included in the acquisition of assets expenditure of Kshs.67,920,438 is an amount of Kshs.8,356,000 relating to purchase of motor vehicles and other transport equipment which was paid for purchase of a Toyota Fortuner. However, review of records provided revealed that the vehicle was directly procured although the prevailing conditions did not justify the procurement method.

Further, the logbook for the vehicle was also not provided for audit verification. Management explained that the supplier was identified from the contracted suppliers of motor vehicles for the Ministry of Transport, Infrastructure, Public Works, Housing and Urban Development. However, there was no documentary evidence to confirm that the County Assembly requested to use the contracted suppliers of the Ministry and the approval from the Tender Committee as required under Section 56 of the Public Procurement and Asset Disposal Act, 2015.

10. Unresolved Prior Year Audit Matters

Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

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. Information Communication Technology

A review of the Information and Communication Technology (ICT) System of West Pokot County Assembly revealed that the Assembly did not have an approved IT Policy, Data Recovery Plan and IT Security Policy which are vital in effective and efficient management of the entity's IT resources.

Further, the County Assembly did not have an IT Steering Committee which is important in performing the oversight function and formulation of policies to ensure that IT Unit functions are properly in place to assist in the achievement of organizational objectives in an efficient, economic and effective manner. In addition, the County Assembly did not have periodic IT reports which are supposed to assess the status of implementation of IT systems and suggest corrective measures.

2. Internal Audit Function

As previously reported, the County Assembly has established an Internal Audit Unit to oversee the governance mechanism and promote transparency and accountability of management of the County Assembly's resources. The unit has, however, only two officers who reports to Management instead of an Audit Committee contrary to Regulation 155(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Head of Internal Audit Unit in a County Government to enjoy

operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

Consequently, due to the shortage of capacity in Internal Audit Unit, weaknesses in internal control systems may pass unnoticed exposing the County Assembly to risk of loss of assets and other resources.

3. Risk Management Processes

As reported in the previous year, a review of risk management processes revealed that the Management does not conduct risk assessment of the various operational areas to make recommendations of the measures to be instituted to check on the risks. The lack of risk assessment and regular reviews on fraud risk control processes makes it impossible for the Management to establish if the operations are not prone to risks.

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 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 governance.

In preparing the financial statements, Management is responsible for assessing the County Assembly's ability to sustain 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 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 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 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 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 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 West Pokot 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

05 November, 2021