

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF BUSIA FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Busia set out on pages 1 to 55, which comprise the statement of 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 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 the County Executive of Busia 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), comply with County Governments Act, 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1.0 Inaccuracies in the Financial Statements

A review of the financial statements revealed variances between the balances reflected in financial statements and the ledger as below:

Component	Item	Ledger Balance (Kshs.)	Financial Statements (Kshs.)	Variance (Kshs.)
Own Generated Revenue	Hospital User Fees	55,948,421	114,997,839	(59,049,418)
	Other Miscellaneous	14,318,502	15,044,257	(725,755)
Use of Goods and Services	Domestic Travel & Subsistence Allow.	75,793,293	76,007,163	(213,870)
	Other Operating Expenses	456,051,288	729,959,818	(273,908,530)
Transfers to Other Govt Entities	Transfer to County Assembly	843,360,776	841,328,583	2,032,193

In the circumstances, the accuracy of the financial statements as at 30 June, 2020 could not be confirmed

2.0 Unsupported Expenditure

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.1,438,991,632 in respect of use of goods and services. The balance constitutes an amount of Kshs.181,642,366 spent on specialized materials and services which includes Kshs.4,641,870 paid to various

suppliers for the supply of food and foodstuffs to different hospitals in the County. However, the expenditures were not supported by the relevant documentations for audit review.

Consequently, the propriety of Kshs.4,641,870 incurred for purchase of food and foodstuff could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Busia 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 are no other key audit matters to report during the year under review.

Other Matter

1.0 Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.9,275,982,340 and Kshs.9,097,406,881 respectively resulting to an under-funding of Kshs.178,575,459 or 2% of the budget. Similarly, the County Executive expended Kshs.6,982,707,604 against an approved budget of Kshs.9,275,982,340 resulting to an under - expenditure of Kshs.2,293,274,737 or 28% of the budget.

However, scrutiny of records for Exchequer releases during the year under review, revealed that Exchequer receipts amounting to Kshs.1,932,999,117 were receipted in the months of June and July, 2020. Late Exchequer release by the County Treasury amount to underfunding the County Executive and impacts negatively on planned activities and service delivery to the public.

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: 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 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 Project Implementation Status

During the year under review, the County Executive anticipated to implement a total of seven hundred and ninety-six (796) projects/programmes through different sectors. However, an analysis conducted on the project performance records revealed that three hundred and eight (308) projects representing 39% had been completed, four hundred (400) projects representing 50% were still on-going while eighty-eight (88) projects representing 11% of the projects had not started by the end of the financial year.

Further, scrutiny of the project implementation reports and physical verification procedure performed on various projects implemented during the year under review revealed the following anomalies as detailed below;

1.1 Delayed Electrification Projects

During the year under review, the County Executive initiated rural electrification projects through the Rural Electrification Authority at a contract price of Kshs.39,900,000 and made advance payment in two tranches of Kshs.5,000,000 and Kshs.34,900,000 in full settlement of the cost. However, an audit inspection conducted in various sampled Wards revealed that the projects had not started and there was no communication from the contracted Authority on the delays in implementation.

1.2 Proposed Completion of Maternity and New Born Unit

Further, through the Department for Health and Sanitation, a local firm was awarded a contract for the completion of Maternity and New Born Unit at Busia County Referral Hospital at a contract sum of Kshs.50,533,680 and a completion date of six months commencing from 5 September, 2019 to 20 February, 2020. Management made an interim payment of Kshs.17,685,212 during the year under review.

A review of the contract progress revealed the following anomalies:

- i. The contractor had been paid an amount totalling to Kshs.48,033,680 equivalent to 95% of the contract price while the construction was estimated to be at 70% complete, thereby resulting to an overpayment. No satisfactory explanation was given for the approvals for payment which was not supported

by completion certificates. The balance of Kshs.2,500,000 was even lesser than the retention amount of 10%.

- ii. The contract period was revised to 12 June, 2020 but a site visit revealed that the works had not been complete having stalled at 70%, thereby denying the citizens of Busia County value for money.
- iii. The project had a big discrepancy between the approved Bills of Quantities and drawings which had a bearing on variations in cost. For instance, the columns were re-done to enable them to carry the load up to third floor while the ramp was also re-done. It was not clear why there was such anomalies despite the project being supervised by various professionals.
- iv. The Bills of Quantities for the work done detailing the specific works that had been quantified at Kshs.17,685,212 was not provided for audit review.

1.3 Construction of NHIF Corporate Block

Through the Department for Health and Sanitation, the County Government awarded a local firm a contract for Construction and Completion of NHIF Corporate Block at Busia County Referral Hospital at a contract sum of Kshs.9,140,175. The contract was to be complete within twelve (12) months starting from 9 October, 2019. During the year under review, Management made an interim payment of Kshs.4,113,175, however, review of the project records revealed that plumbing, electrical and general works were poorly done, a sign of poor workmanship by the contractor. It was also not clear why the ground floor was constructed using bricks while the first floor was done using a mix of machine cut stones and partly local quarry stones.

A site visit revealed that the contractor had done only the form work and the project had stalled at 50% completion level.

1.4 Construction of Agribusiness Incubation Centre

Through the Department for Agriculture and Animal Resources, the County Government awarded a local firm a contract for construction of Agribusiness Incubation Centre at Agricultural Training College at a contract sum of Kshs.33,520,695 through contract agreement dated 14 August, 2019. The contract duration was for a period of six (6) months commencing on 2 September, 2019 to 13 February, 2020. The contractor had been paid cumulative amount of Kshs.30,847,022 or 92% of the contract value by the end of the financial year.

However, the contractor had not finished the work as agreed in work-plan, four months after the lapse on the contract period. The scope of work increased in the overall area of the building from 1503 square meters (as per original Bill of Quantities to 1832 square meters. This translated to quantities and cost variation which was not approved.

Further, the project had a big discrepancy between the approved Bills of Quantities and drawings which has a bearing on variations in cost. It was not clear why there was such anomalies yet the project was being overseen by various professionals.

1.5 Delayed Rehabilitation of Lugulu-Bwaliro Water Supply

Through the Department for Water, Environment and Natural Resources, the County Government awarded a local firm a contract for the rehabilitation of Lugulu-Bwaliro Water Supply at a contract sum of Kshs.9,590,770. The project period was to be 12 weeks starting 28 May, 2019. During the year, an amount of Kshs.5,075,770 was paid to the firm. However, physical verification revealed that the electric water pump was installed on private land and no documentation was provided with regard to ownership of that land or purchase proceedings.

Further, the tank was empty at the time of the site visit, an indication of malfunctioning of other auxiliary parts of the project parts.

1.6 Poor Construction of Major Drainage Structures and Improvement of Machukus-Gara Road

Through the Department for Public Works, Roads, Transport and Energy, the County Government awarded a local firm a contract for the construction of major drainage structures and improvement of Machukus-Gara Road at a contract sum of Kshs.69,391,130. The project period was to be 11 months starting 15 April, 2019 to 25 February, 2020. During the year, an amount of Kshs.23,092,354 was paid to the contractor. However, it was noted that back filling of the gabions at the box culverts were poorly done, posing risk of making the box culverts weaker while certain sections of the road were poorly compacted, which needed to be re-done by the contractor before payment of his retention money.

1.7 Construction of Amoni Market Phase I

A local firm was awarded contract for construction of Amoni Market Phase I at Malaba Central Ward at a contract sum of Kshs.14,444,865. The contract was awarded on 21 May, 2018 for a contract period of 120 days. However, the covered storm drains and roofing which had been paid for Kshs.285,120 and Kshs.1,387,550 respectively, were incomplete and the contractor was not at the site. The project was incomplete as at 30 June, 2020.

From the foregoing, the County residents are yet to receive value for money from the implementation of the programmes.

2.0 Non-Submission of Financial Statements for Funds

During the year under review, an amount of Kshs.1,900,000 was transferred to Busia County Alcoholic Drinks Control Fund for its operation expenses. No explanation or documentation was provided on how the funds disbursed to the County Alcoholic Control Fund since inception had been accounted for. The Fund was established in the year 2014, and has been in existence for the last six years, no financial statements have been prepared and submitted for audit purposes as required under Section 47(1) of the Public Audit Act, 2015. The law provides that 'the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

In the circumstances, the Management was 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 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

1.0 Assets Register

Review of motor vehicle records revealed that the assets register had not been updated and did not conform with the revised template issued by The National Treasury. It did not have the purchase costs, opening balances at the start of the year, additions during the year, disposals and the closing balances at the end of the year. The County Executive did not also provide asset register for buildings, computers, and furniture and fittings.

In the circumstances, it could not be established whether the Management has instituted effective controls to safeguard the assets.

2.0 Ineffective Management of the County Public Service

The County Public Service Board (CPSB) had established ten policy documents and procedures relevant for effective management of public service. However, none of the policies had been approved by the County Executive Committee Member for Public Service Management for adoption and implementation. The copies of the appointment letters for the current five board members were not provided for audit review. The current PSB as constituted did not have a Certified Public Secretary member of good professional standing contrary to Section 58(1)(c) of County Governments Act, 2012.

In the circumstances, it has not been possible to confirm the effectiveness of the Public Service Board.

3.0 County Revenue Collection and Management System (County-Pro)

The County Executive contracted M/S Strathmore Research and Consultancy Center (SRCC) to provide automation of revenue collection. The project was carried out in five phases that included gap analysis, system development and modification, training, go-live and continuous user support.

The contract was to be executed within a period of three (3) years with a commencement date of 17 November, 2015 and expected completion date of 17 November, 2018. The executed contract provided that SRCC would be paid a recurring fee of 4% of all revenues processed through the application for a period of three years, on a quarterly basis, towards mobilization of resources for back-end server, third party systems software, workflow process modelling, legacy data migration, online/classroom training programs, Strathmore University certification, training workshops, and point of sale (POS) terminals deployment.

Further, verification of the project and review of reports revealed failure by the user departments in adopting and fully utilizing all the modules of its two main integrated components where water billing and meter reading module had not been fully integrated with the back-end server and point of sale (POS) platform respectively, and were thus not functional.

In addition, review of the agreement form revealed that the contract had elapsed two years ago and the Management had not taken any corrective action for smooth transition. No satisfactory explanation was given for such serious omission.

In the circumstances, it could not be established whether Management has an effective IT controls to safeguard the resources and get the benefit of the infrastructure.

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 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.

In preparing the financial statements, Management is responsible for assessing the County Executive's ability to continue 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 Executive 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 money is applied in an effective manner.

Those charged with governance are responsible for overseeing the County Executive'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 review 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review 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 Executive policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism 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 Executive'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 Executive 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 Executive 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

23 November, 2021