REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF KWALE 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 Kwale set out on pages 1 to 141, 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 summary statements of appropriation - recurrent, development and 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 matter described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, the financial position of County Executive of Kwale 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 County Governments Act, 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Cash and Bank Balances

The statement of financial assets and liabilities and as disclosed under Note 21A to the financial statements reflects bank balances of Kshs.2,532,888,232 as at 30 June, 2020. Audit circularization revealed that the County Government operated a bank account at Kenya Commercial Bank Ltd, Kwale Branch for the implementation of Mwache Dam Project funded by the World Bank under Kwale County Water Security and Climate Scheme which had a balance of Kshs.22,921,419 as at 30 June, 2020. However, the bank account is not among the bank accounts listed at Note 21A to the financial statements.

In addition, Equity Bank Ltd Imprest Account - Lands reflects a balance of Kshs.5,000,000 while the cashbook reflects a Nil balance as at 30 June, 2020. This was in respect of amounts received after the end of the financial year. Management had not reconciled the amount Kshs.5,000,000 as at the time of the audit.

As a result, the accuracy and completeness of the cash and bank balances of Kshs.2,532,888,232 as at 30 June, 2020 could not be confirmed.

2. Proceeds from Domestic and Foreign Grants

The statement of receipts and payments for the year ended 30 June, 2020 reflects Nil proceeds from domestic and foreign grants. Audit verification revealed that the County Government during the year under review, operated a bank account at Kenya Commercial Bank Ltd, Kwale Branch which had a balance of Kshs.22,921,419 as at 30 June, 2020. The bank account was opened by the County Treasury for the implementation of Mwache Dam Project funded by the World Bank under Kwale County Water Security and Climate Smart Scheme and whose funds were transferred directly from the Ministry of Water, Sanitation and Irrigation to the bank account. However, the funds have not been accounted for in the financial statements in line with Part 5.4 of the County Financial Accounting Reporting Manual of County Government of Kwale.

In the circumstances, the accuracy and completeness of Nil proceeds from domestic and foreign grants for the year ended 30 June, 2020 could not be confirmed.

3. Payment of Allowances Outside the Imprest System

The statement of receipts and payments and as detailed under Note 12 to the financial statements reflects use of goods and services expenditure amounting to Kshs.1,419,163,291. Included in the amount is domestic travel and subsistence expenditure of Kshs.258,626,164. This includes an amount of Kshs.121,743,353 in respect of subsistence allowances paid to various officers which were expended directly instead of being treated in the first instance as imprest advances. Management explained this to be claims but did not support them with authorizations.

As a result, the accuracy, completeness and validity of the subsistence allowance of Kshs.121,743,353 paid outside the imprest system could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Kwale 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. Expenditure Under COVID-19

During the financial year under audit, the Country was hit by Covid-19 pandemic. Due to the emergency, the County Government of Kwale prepared a supplementary budget of Kshs.347,920,920 in response to Covid-19 pandemic which was approved by the County Assembly. The County Government also received an amount of Kshs.179,742,000 from the National Government as Covid-19 pandemic response funds and health workers allowances. However, no expenditure had been incurred as at 30 June, 2020 due to delays in passing the supplementary budget. The allocation was spent in the financial year 2020/2021.

2. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.12,962,592,754 and Kshs.9,040,261,127 respectively resulting to an under-funding of Kshs.3,922,331,627 or 30% of the budget.

The under absorption of approved budget by Kshs.3,922,331,627 or 30% is an indication that all activities and projects in the annual work-plan were not implemented by County Executive. The Management has attributed the under absorption to late disbursement of exchequer by the National Treasury where Kshs.1,063,793,165 was received in June, 2020.

3. Late Exchequer Releases

During the year under review, the County Executive of Kwale budgeted for Exchequer releases of Kshs.10,436,731,780 but received a total of Kshs.8,281,484,523, out of which funds totalling Kshs.1,063,793,165 were received in the month of June, 2020.

The late Exchequer releases of Kshs.1,063,793,165 together with the outbreak of the Covid-19 pandemic may have contributed to the under absorption of the budget by Kshs.3,922,331,627 or 30% of the budget.

4. Reduced Collection on Revenue Streams

During the period under audit, the County Executive targeted to collect Kshs.325,000,000 from various revenue sources. However, a total of Kshs.254,445,870 was collected leading to a deficit of Kshs.70,554,130 or 22% of the budgeted revenue.

In addition, the total recorded receipts of Kshs.254,445,870 in the year 2019/2020 decreased by Kshs.60,579,311 compared to 2018/2019 receipts of Kshs.315,025,181 representing a decrease of 19%. According to Note 9 to the financial statements, there was notable decrease in collection from three revenue streams by a total of Kshs.49,689,648 or 37% as shown below:

No.	Revenue Item/Stream	2019/2020 (Kshs.)	2018/2019 (Kshs.)	Decrease (Kshs.)	%
1	Business Permits	38,859,344	69,536,520	30,677,176	44
2	Public Health	3,999,500	10,887,706	6,888,206	63
3	Land Rates	40,032,270	52,156,536	12,124,266	23
	Total	**82,891,114**	**132,580,762**	**49,689,648**	**37**

Management has attributed the above significant reduction of revenue collection to Covid-19 pandemic which led to waivers.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Resources section of my report, based on the audit procedures performed, I confirm that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 County Own Generated Receipts

1.1 Failure to Collect Liquor Licensing Fee

An analysis of the revenue streams by fee type revealed that there were seventy-seven different types of fees collected. However, the fees from liquor licensing fees for control of production, sale and use of alcoholic drinks within the County was missing. Enquiry from Management revealed that the County Government had not taken over the function of liquor licensing despite it being one of the devolved functions as per the Fourth Schedule of the Constitution of Kenya, 2010.

Further, the County Assembly enacted the Liquor Control Act in November, 2020. However, Management had not mapped the revenue from liquor licensing despite Kwale County being a tourist destination with several entertainment premises and tourist hotels.

1.2 Delayed Transfer of Mpesa Paybill Collections to the Revenue Account

Examination of Mpesa Paybill statements for twelve months up to 30 June, 2020 revealed delays in funds transfer from the Mpesa Paybill to the Kwale County Government Revenue Account as tabulated below:

No.	Period	Date Transferred	Amount (Kshs.)
1	July to September, 2019	27/09/2019	2,272,280
2	October to December, 2019	24/12/2019	1,029,382
3	February, 2020	28/02/2020	8,560,216
4	March, 2020	26/03/2020	6,464,024
5	April, 2020	28/04/2020	1,611,902
6	May, 2020	28/05/2020	563,389
7	June, 2020	30/06/2020	218,050
8	June, 2020	26/06/2020	6,222,145
	Total		**26,941,388.00**

Management attributed the delay in in funds transfer from the Mpesa Paybill to the Kwale County Government Revenue Account to Safaricom.

The revenue collected, therefore, remained idle instead of being put to use to finance county activities, contrary to regulation 63(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that an Accounting Officer and a Receiver of Revenue are personally responsible for ensuring that adequate safeguards exist and are applied for the prompt collection and proper accounting for, all county government revenue and other public moneys relating to their county departments or agencies.

2.0 Conditional Grants

According to Note 1C to the financial statements, the County Executive of Kwale received a total of Kshs.1,165,171,922 as conditional grants from fifteen different sources. However, the following observations were made:

2.1 Non-Submission of Financial and Technical Reports

i. Youth Polytechnic Support Grant

The County Executive received an amount of Kshs.59,793,298 in respect of Youth Polytechnic Support Grant from the National Government. However, the County Executive did not submit financial and technical reports to the County Treasury with copies to State Department of Vocational and Technical Training for expenditure amounting to Kshs.28,772,160 which was disbursed to various Youth Polytechnics for construction and equipping of county youth polytechnics. The Management did not comply with the grant conditions thus risking discontinuation.

ii. Abolition of User Fees in Health Centres and Dispensaries

The County Government received grants amounting to Kshs.15,209,593 in respect of abolition of User Fees in Health Centres and Dispensaries during the year ended 30 June, 2020. However, there was no evidence that financial returns were sent to the National Treasury and copied to the Ministry of Health.

iii. National Agriculture & Rural Inclusive Growth Project (NARIG)

The County Government of Kwale received a total of Kshs.241,448,671 under the National Agriculture and Rural Inclusive Growth Project (NARIGP) grant. Included in the expenditure is an amount of Kshs.137,561,198 disbursed to Community Driven Development Committees (CDDC) for implementation of various micro-projects. However, no documentary evidence was provided to show that the committees submitted financial returns of the activities undertaken. In addition, the funds were disbursed to the Community Driven Development Committees before recruitment of a service provider was complete as per the project manual.

Consequently, the County Executive was in breach of the grant conditions.

2.2 National Agriculture and Rural Inclusive Growth Project (NARIGP)

Note 15 to the financial statements indicates that a total of Kshs.245,191,047 was spent under National Agriculture and Rural Inclusive Growth Project (NARIG). Included in the expenditure of Kshs.245,191,047 are expenses amounting to Kshs.82,236,031 incurred through imprests. The imprest was operated outside the IFMIS system which is the prescribed financial management system contrary to the provision of Section 12(1)(e) of the Public Finance Management Act, 2012. Management provided a manual imprest register for audit verification and did not provide explanation on why the imprests were not processed through IFMIS.

Consequently, Management was in breach of law.

3. Non-Deduction and Remittance of Withholding Tax - European Union - Instruments for Devolution Advise and Support

The County Executive spent Kshs.54,557,366 under the Department of Trade (European Union - Instruments for Devolution Advise and Support (IDEAS) grant during the year under review. Included in the expenditure are two payments amounting to Kshs.27,616,761 for the construction of a fresh produce wholesale market at Kombani. However, these payments were not subjected to Withholding Tax, VAT and retention money deductions.

The County Executive stands the risk of penalties for non-deduction and remittance of taxes.

4. Implementation of E-Procurement

The county government operationalized e-procurement on the IFMIS procurement portal. However, it was noted that in some instances, the requisition by user departments, the local purchase orders; and the tender evaluation scoring for both technical and financial scores were processed manually, Further, the County Executive advertised for thirteen (13) tenders amounting to Kshs.416,027,370 during the year under review. However, the tenders were not uploaded on the government tender advertisement portal (tenders.go.ke) or the County’s own website. This is contrary to the Executive Order No.6

of 2015 which required all Public entities to migrate their procurements plans to the Kenya Government IFMIS e-procurement system.

Consequently, value for money has not been realised fully in the use of the e-procurement system and management is in breach of law.

5. Construction of Roads

Included in the acquisition of assets expenditure of Kshs.3,057,683,614 is an amount of Kshs.218,160,426 in respect of construction of roads. Audit verifications revealed the following anomalies:

i. Proposed Tarmacking of Kona ya Jadini – Lotfa Resort Road

The Bills of Quantities for the tarmacking of the Kona ya Jadini – Lotfa Resort Road project included Engineer's site office with furniture at a cost of Kshs.2,172,000 under preliminaries and general items. However, during audit inspection of the project in November, 2020, it was noted that the Engineer's site office had not been constructed.

ii. Tarmacking of Kona Musa Mabokoni – Kona ya Maasai Road

The Bills of Quantities for the tarmacking of Kona Musa Mabokoni – Kona ya Maasai Road project included a provision for Engineer's site office equipped with furniture and fittings and two utility vehicles at a cost Kshs.12,381,000 which were to have been procured at the beginning of the project. A payment of Kshs.27,797,768 had been made to the contractor under the first certificate. However, during audit inspection of the project in November, 2020, it was noted that the Engineer's site office had not been constructed and the motor vehicles for the project had not been procured.

Consequently, value for money has not been realised in the implementation of the projects.

6. Purchase of Specialized Plant, Equipment and Machinery - Supply and Installation of ICT Networking and Communication Equipment

The County Executive incurred expenditure of Kshs.5,551,361 for supply and installation of ICT networking and communication equipment. Audit verifications revealed that no requisition was raised and the supplier was paid in full before delivering and installing the equipment. Further, Management did not provide evidence of testing for performance of the equipment as per tender specifications.

Consequently, Management was in breach of law and value for money may not have been realised in the purchase.

7. Construction of the Governor's Residence

The County Executive awarded the contract for the construction of the Governor's residence in the 2017-2018 financial year for a period of 12 months. The project contract period was extended for four (4) months with the new completion time set for August, 2019. The County Executive had incurred costs of Kshs.105,125,725 towards the construction of the Governor's Residence as at 30 June, 2020. Site inspection in the month of November, 2020 revealed that the contractor was not on site with minimal work having been done between October, 2019 and November, 2020. Further, the contractor had not erected a signboard at the construction site although there was an allocation of Kshs.50,000.

Consequently, value for money has not been realised on the project which is likely to incur more costs due to the delays in completion.

8. Construction of County Headquarters

As previously reported, the County Executive awarded the contract for the construction of the County Headquarters at an estimated cost of Kshs.462,376,631. Site visit revealed that the building had been occupied and in use. However, Management did not provide for audit review handing over reports for the project. This was contrary to Part 7.2.4 of the Public Works Manual for Works 2009 on finishing the contract, which provides for completion, taking-over certificate, operating and maintenance manuals and final account procedures at the end of a construction project.

Consequently, it was not possible to establish whether value for money was realised and that the building was ready for occupation.

9. Projects Implementation Status

Projects implementation status report as at 30 June, 2020 which was provided for audit review indicates that the County Executive allocated a total of Kshs.3,585,064,063 for the implementation of 522 projects. The following observations were made:

i. Two Hundred and sixty-five (265) projects representing 51% of the planned projects were completed as at 30 June, 2020.

ii. One hundred and fifty-four (154) projects representing 30% of the planned projects were ongoing as at 30 June, 2020.

iii. One hundred and forty-five (145) projects representing 28% of the planned projects had not started as at 30 June, 2020.

iv. Eleven (11) projects had stalled.

Audit inspection undertaken in the month of November, 2020 on some of the sampled projects implemented during the year under audit revealed the following anomalies:

i. Floor finishing at the Kombani Fresh Produce Market meat centre was done with tiles and not terrazzo as per the Bills of Quantities
ii. The County Executive contracted for the supply and delivery of In-Calf Dairy Cows and Heifers. However, the animal records were not handed over to the farmers.

iii. The County Executive contracted for the construction of 18 Bed Capacity Hostel at Ukunda Youth Polytechnic. Site inspection revealed that the roof was leaking and the ceiling was stained due to the leakages.

iv. The County Executive contracted for the rehabilitation of the Mwangoni - Kisimani - Ndauni Road and the Vitsangalaweni - Kwa Masai Road (3.5 Km). Site visit revealed that the roads were impassable due to poor drainage.

v. The County Executive contracted for the supply and delivery of ICT Equipment for the County Data Recovery Site. The equipment was supplied and full payment made. However, site visit revealed that the equipment had not been installed.

vi. The County Executive contracted for the construction of Paved Road, Market Sheds, Prayer Room and Public Toilets at Beach Access Road and Installation of Street Lighting, and construction of Market Stalls, Beach Toilets and Prayer Rooms at Trade Winds. Site visit revealed that the projects had stalled and the contractor was not on site.

This is an indication of poor project planning and management of projects implementation which is likely to affect service delivery to the resident of Kwale.

Consequently, value for money may not have been realised from the projects that were on going and those that had stalled.

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, except for the effect of the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Lack of Controls on Voiding of Receipts

Audit review of the Revenue Management System revealed that receipts amounting to Kshs.3,669,250 were receipted through Point of Sale gadgets later reversed. Review of the controls over the Revenue Management System revealed that Sub-County Revenue Officers had exclusive rights in the system to void transactions. There were no checks over the Sub-County Revenue Officers rights to void receipts.

In the absence of controls on receipt voiding, the County Executive is open to fraud and manipulation of revenue data.

2. Lack of Risk Management Policy

The County Executive Management had not put in place risk management policy, strategies and risk register to mitigate against risk. It was, therefore, not clear how the Management manages risk exposures. This is in contravention of Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the county government entity develops risk management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that builds robust business operations.

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 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 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 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 financial reporting process, reviewing the effectiveness of how the Management 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 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 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 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 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
<u>AUDITOR-GENERAL</u>

Nairobi

12 October, 2021