REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF MIGORI 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 Migori set out on pages 1 to 73, which comprise the statement of assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows, 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 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 Migori as at 30 June, 2020, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Cash Basis) and comply with County Governments Act, 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1.0 Unsupported Receipts - County Own Generated Revenue

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects county own generated revenue balance of Kshs.305,688,447 which includes Kshs.6,159,725 in respect of land rates/poll. However, Management did not provide records on land ownership and an updated valuation roll and register as well as a schedule of plots allotment records and individuals granted Temporary Occupation Licenses (TOL) for audit review.

Consequently, the accuracy and completeness of own generated revenue of Kshs.305,688,447 for the year ended 30 June, 2020 could not be confirmed.

2.0 Irregular Payment of Compensation of Employees

As disclosed in Note 11 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.2,608,291,872 in respect of compensation of employees which constitutes Kshs.2,468,947,165 and Kshs.139,344,707 for basic salaries processed through the Integrated Payroll and Personnel Database (IPPD) platform and manually outside the IPPD system, respectively. It was not clear why Management did not pay all its employees using the IPPD but resorted to manual system which requires manual calculation and is prone to human error.

Further, county employee cost increased to Kshs.2,608,291,872 from Kshs.2,502,472,079 reported in the previous year resulting into an increase of Kshs.105,819,793. Management has not provided explanations and disclosures for the significant increase in the employees' costs.

In the circumstances, the accuracy and validity of Kshs.139,344,707 in respect to compensation of employees processed manually and additional Kshs.105,819,793 in the year under review could not be confirmed.

3.0 Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 12 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,725,470,945 under use of goods and services which includes insurance costs balance of Kshs.54,583,960 paid to an insurance broker for insurance services which was rendered in prior years and listed as a pending bill. However, Management did not provide inspection and acceptance certificate as evidence that the County Executive inspection and acceptance committee confirmed completion of the service accordance with the contract.

Further, the balance includes an amount of Kshs.93,205,201 in respect of other operating costs which constitutes an amount of Kshs.12,414,661 being payments to various lawyers for representing the County Government in various legal matters. However, the payment was not supported with individual itemized billing to enable verification. The County Management had not developed a clear system of ensuring legal fees were billed correctly, avoiding lump sum billing as reflected in the fee note from the lawyers.

Consequently, the propriety of the payment of insurance costs and legal fees amounting to Kshs.66,998,621 for the year ended 30 June 2020 could not be confirmed.

4.0 Transfers to Other Government Entity

As disclosed in Note 14 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,274,038,785 in respect of transfers to other Government entities which includes a balance of Kshs.1,036,886,081 that is indicated as Transfers to the County Assembly of Migori. However, the financial statements of the County Assembly of Migori reflects Kshs.958,060,983, resulting to an unreconciled and an unexplained variance of Kshs.78,825,098.

Consequently, the accuracy and completeness of the transfer to the County Assembly balance of Kshs.1,036,886,081 for the year ended 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 County Executive of Migori 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. I have determined that there are no key audit matters to report during the year under review.

Other Matter

1.0 Budgetary Controls and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.9,727,326,575 and Kshs.7,709,139,733 respectively, resulting to an under-funding of Kshs.2,018,186,842 or 21% of the voted amount. Similarly, the County Executive expended Kshs.7,612,263,729 against an approved budget of Kshs.9,727,326,575 resulting to net under expenditure of Kshs.2,115,062,846 or 22% of the budget.

Further, the statement reflects an actual Exchequer releases balance of Kshs.7,165,242,726 against an approved budget of Kshs.9,040,831,953 which includes an amount of Kshs.1,489,781,484 that was received between 1 June and 30 June, 2020 giving the Management inadequate timeframe to utilize the funds. There is therefore, need for The National Treasury to re-look at its funds release strategies to the County Governments with a view to improving on the funds' release timing schedules for better service delivery to the people of Migori.

The underfunding and underperformance affected the planned activities and impacted negatively on service delivery to the people of the County

2.0 Pending Payables Bills

According to Disclosure Note 6.9 to the financial statements, the County Executive had pending accounts payable totalling Kshs.1,087,056,504 as at 30 June, 2020. However, the closing balance for 2018/2019 audited report reflects Kshs.558,144,277 in respect of the pending accounts payable while the opening balance in 2019/2020 indicates nil balance resulting to an unexplained variance of the same amount. Management has not explained the discrepancy and why the bills were not settled during the year to which they occurred.

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

3.0 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, 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 Irregular Hiring of Casual Labour

As disclosed in Note 11 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.2,608,291,872 in respect of compensation of employees which includes an amount of Kshs.108,894,245 (2019-Kshs.90,657,549) paid as temporary employee cost. The Management engaged casuals in various departments without authority of the County Public Service Board as provided for by Sections 67 of the County Governments Act, 2012 which states that no appointment or assignment of a duty in a county public service shall be valid unless it is evidenced in writing. Further, section 74 states that "The County Public Service Board shall regulate the engagement of persons on contract, volunteer and casual workers, staff of joint ventures and attachment of interns in its public bodies and offices. Further, the casuals have been continuously engaged for more than three months without written contract contrary to Section 9(1) of the Employment Act Cap 226 laws of Kenya.

Consequently, the Management is in breach of the law.

2.0 Acquisition of Assets

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.1,872,300,250 on acquisition of assets. The following observations were made:

i) Included in the balance is payment for the construction and civil works amounting to Kshs.352,586,120 which includes Kshs.2,202,402 paid for rehabilitation of Bondo Dam in Wasweta II Ward. Physical verification revealed that desilting was not completely done while the embankment constructed is too narrow therefore posing a danger since the site has not been fenced off and project is not branded.

ii) The balance constitutes research studies, design and supervision payments amounting to Kshs.93,851,412 which includes Kshs.27,953,100 paid to a consultant as a payment in respect to consultancy services for architectural drawings and supervision of works for three (3) projects namely County Office Headquarters, Governor's Office and the Deputy Governor's Residence. However, physical verification of the projects revealed that work has not commenced despite architectural drawings being done and supervision money paid for.

iii) The balance includes purchase of household and institutional equipment amounting to Kshs.24,480,400 which includes Kshs.19,600,000 paid to a company for supply of hospital beds. The expenditure was in relation to Covid-19 pandemic intervention from Ministry of Health funds in response to Covid-19 pandemic where the County Executive had received an amount of Kshs.188,206,000. Physical verification reveal that beds and beddings procured were still in store and had not been put to the intended purpose hence the public may have not received value for money.

iv) An amount of Kshs.185,988,279 was paid for purchase of specialized equipment which includes Kshs.14,899,950 paid for equipping Kehancha Mortuary. Physical verification revealed that the equipment is complete and not in use.

v) The balance includes supply of six (6) mobile toilets at a cost of Kshs.5,450,000 which procured but physical verification at the time of the audit revealed that the toilets were supplied but not in use.

vi) Included in the acquisition of assets amount is construction of roads amounting to Kshs.938,814,441 which includes Kshs.284,432,831 for graveling of roads and patching. Physical verification of the earth roads revealed that the expenditure relates to maintenance of earth roads through gravel patching and is done annually. This make the expenditure repetitive and expensive as it requires regular maintenance costs for the same roads which is not sustainable in the long run.

vii) The balance includes an amount of Kshs.938,814,441 under the construction of roads out of which an amount of Kshs.39,087,761 was paid to a contractor in respect of construction of Uriri Oria Road in a contract which commenced on 13 January, 2016 at a sum of Kshs.797,392,630 and ending on 12 January, 2021 but was extended for six(6) months with effect from 14 January, 2021 at no extract costs. The slow pace in the construction of the road affect service delivery to the citizen of Migori.

The above is against the spirit of Section 162(2)(c)(i) of the Public Finance Management Act, 2012 that requires adequate arrangements to be made for proper use, custody, safeguarding and maintenance of public property.

Consequently, the value for money on the expenditure amounting to Kshs.1,872,300,250 spent on acquisition of assets for the year ended 30 June, 2020 could not be confirmed.

3.0 Non-Compliance with Law on Ethnic Composition

During the year under review, the County Executive spent an amount of Kshs.2,608,291,872 in respect to compensation of employees. A review of the personnel records indicated that the total number of employees of County Executive was 2517 out of which 1775 or 71% comprises of members of the dominant community in the county. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community”.

In the circumstance, 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 governance were not effective.

Basis for Conclusion

1. Lack of Un-updated Valuation Roll and Land Registers

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects county own generated revenue balance of Kshs.305,688,447 which includes Kshs.6,159,725 in respect of land rates/poll. However, Management did not maintain an updated record of all land owners within the County. The County government had not updated the valuation roll and register of land owners was not maintained. Further plot allotments and individuals granted temporary occupation licenses (TOL) was not provided for audit review.

In the circumstances, it has not been possible to establish whether the County Executive has instated effective and strong internal control to enhance collection of county own generated revenue.

2. Receipts - Revenue Collection System/Automation

As reported in our previous year, the County Government began the process of automation of revenue collection in 2014/2015 financial year through tender number MC/49/2014/2015. However the process was cancelled due to a court case. At the end of the current financial year, the matter had not been resolved and the County’s revenue collection was still heavily dependent on manual systems. Weakness of manual revenue collection system increases the risk of revenue leakages. The County Management should adopt technology to improve efficiency and effectiveness in revenue collection.

Consequently, the County Government have failed to leverage on technology to improve results.

3. Lack of Un-updated Fixed Assets Registers

Annex 4 - Summary statement of fixed assets to the financial statements reflects a balance of Kshs.8,987,985,830 as at 30 June, 2020. However, fixed asset register maintained by the County Executive was not up-dated and did not include the values, acquisition dates and historical costs of the fixed assets

In the circumstances, it has not been possible to determine whether the County Executive has instituted proper mechanism to safeguard the assets.

4. Lack of Risk Management Policy and Report

During the year under review, the County Executive did not have a risk management policy and there was no documented formal risk assessment from the Internal Audit Unit. This is despite the provisions of Section 153(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 that internal auditors have a duty to give reasonable assurance through the Audit Committees on the state of risk management, control and governance within the organization.

In the circumstances, it could not be established how the risks were identified, monitored and controlled to ensure correction/mitigation measures were implemented

5. Lack of an Approved Staff Establishment

The County Executive did not have an approved staff establishment to indicate the authorized staffing levels in position for each category of employees and or any variance thereof. Further, no evidence was provided to indicate that the County Executive had carried out job evaluations to determine the staff requirements for each category contrary B.5(2) of the County Public Service Human Resource Manual which states that all vacancies shall be declared in a prescribed format which shall include: the number of vacancies, when the vacancy occurred, whether the vacancy is within the authorized establishment and other relevant details.

In the circumstances, it has not been possible to ascertained whether the County Executive had engaged the optimal numbers of employees for all categories.

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, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the County Executive'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 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 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 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 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 ability of County Executive 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

16 November, 2021