REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF MOMBASA 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 Mombasa set out on pages 1 to 43, which comprise statement of assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows and summary statement 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, in all material respects, the financial position of the County Executive of Mombasa 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. Inaccuracies in the Financial Statements

Review of the financial statements for the year ended 30 June, 2020 revealed that the County Executive's total expenditure balance was Kshs.11,283,659,310. However, an analysis of the data extracted from the IFMIS payment details report for 1 July, 2019 to 30 June, 2020 indicates that the County Executive made payments amounting to Kshs.12,681,375,379 resulting in an unexplained and unreconciled variance of Kshs.1,397,716,069.

Further, the statement of receipts and payments reflects balances which differs significantly with the IFMIS report as detailed below: -

Item(s)	Statement of Receipts & Payments (Kshs.)	IFMIS Report Balance (Kshs.)	Variance (Kshs.)
Compensation of Employees	5,017,080,368	4,325,672,682	691,407,685
Use of goods and Services	1,615,809,932	1,639,761,990	(23,952,058)
Subsidies	25,456,649	12,736,649	12,720,000
Transfers to Other Government Units	660,885,783	259,706,678	401,691,309
Other Grants and Transfers	633,717,569	279,776,541	353,941,028

Social Security Benefits	0	3,648,300	(3,648,300)
Acquisition of Assets	1,727,775,691	2,162,812,796	(435,037,105)
Finance Costs, including Loan Interest	0	613,894,348	(613,894,348)
Other payments	1,602,933,318	0	1,602,933,318

In the circumstances, the accuracy and completeness of the balances reflected in the statement of receipts and payments for the year ended 30 June, 2020 could not be confirmed.

2. Unconfirmed County Own Generated Receipts

2.1. Property Income - Rates

As disclosed in Note 9 to the financial statements, the statement of receipts and payments reflects county own generated receipts of Kshs.3,139,929,445 (2019: Kshs.1,062,676,822) out of which an amount of Kshs.505,275,833 relates to property income - rates. However, the valuation roll which was used for billing the plot owners had not been updated with new land subdivisions while more than 4,000 plots were registered in the name of owners who could not be identified. Although information available indicates that the new valuation roll had been finalized, no evidence was provided to show that the outstanding rates had been reconciled to reflect the correct balances.

2.2. Vehicle Parking Fees

The balance also includes an amount of Kshs.493,169,133 relates to vehicle parking fees and charges. Records provided for audit review indicated that an amount of Kshs.212,325,361 was collected through the mobile financial platform for direct parking. The supporting schedules showed that an amount of Kshs.222,487,027 was collected through the system, resulting to an unexplained difference of Kshs.10,161,666 between the two sets of records. Management has however attributed the variance to reserved parking slots. However, details of the reserved parking slots, for whom reserved and signed agreements showing rates charged were not provided for audit verification.

Consequently, the accuracy and completeness of other property income - rates of Kshs.505,275,833 and vehicle parking fees of Kshs.493,169,133 for the year ended 30 June, 2020 could not be confirmed.

3. Unsupported Expenditure - Use of Goods and Services

As detailed in Note 12 to the financial statements, the statement of receipts and payments reflects expenditure amounting to Kshs.1,615,809,932 in respect of use of goods and services. Included in this amount is expenditure balance of Kshs.136,374,797 relating to utilities, supplies and services which further include electricity expenses of Kshs.24,291,303. However, no supporting electricity bills were provided for audit verification.

Under the circumstances, the propriety and validity electricity expenses amounting to Kshs.24,291,303 for the year ended 30 June, 2020 could not be confirmed.

4. Transfers to Other Government Units

As disclosed in Note 14 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.660,885,783 in respect of transfers to other government entities. However, the County Revenue Fund bank account statement indicated that Kshs.532,363,012 was transferred to the County Assembly, leaving a balance of Kshs.128,522,771 that was explained as amount paid by the County Executive on behalf of County Assembly but which had a separate budget. Review of the County Assembly's financial statements indicates that an amount of Kshs.730,885,783 was actually received from the County Treasury. The three sets of records have not been reconciled or explained.

In the circumstances, the accuracy and completeness of transfers to other government entities of Kshs.660,885,783 for the year ended 30 June, 2020 could not be confirmed.

5. Unsupported Expenditure - Acquisition of Assets

As disclosed in Note 17 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.766,438,883 in respect of construction and civil works, out of which an amount of Kshs.146,197,652 was paid to various contractors. However, payment vouchers, list of pre-qualified suppliers, tender evaluation and award minutes and signed contracts were not provided for audit verification.

Consequently, the propriety and validity of the expenditure of Kshs.146,197,652 on construction and civil works could not be confirmed.

6. Other Payments Other Expenses (Creditors Budget)

As detailed in Note 20 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.1,602,933,318 in respect of other payments. The balance includes other expenses amounting to Kshs.592,268,805, being payments to creditors. However, the amount of Kshs.592,268,805 constitute an amount of Kshs.99,969,035 paid to creditors and for which no supporting payment vouchers, invoices, goods received notes, certificates of works completed and inspection reports were provided for audit verification.

Consequently, the propriety and validity of other expenses amounting to Kshs.99,969,035 could not be confirmed.

7. Bank Balances

The statement of assets and liabilities as at 30 June, 2020 reflects bank balance of Kshs.400,282,877. However, included in the bank balance is an amount of Kshs.1,064,900 in Local Authority Service Delivery Action Plan bank account whose cash book and bank reconciliation statements were not provided for audit review.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.400,436,502 as at 30 June, 2020 could not be confirmed.

8. Deposits and Retentions

As disclosed under Note 23 to the financial statements, the statement of assets and liabilities as at 30 June, 2020 reflects a balance of Kshs.51,406,720 in respect of accounts payables, out of which an amount of Kshs.838,720 relates to deposits and retentions money. Verification of the Department for Finance and Economic Planning's payment details revealed that a total of Kshs.168,589,558 was paid to various contractors as retentions money during the year under review. However, reconciliation of accounts payable indicates that an amount of Kshs.124,213,111 was actually paid during the year resulting to a variance of Kshs.44,376,447 which was not explained or reconciled.

Further, Management has indicated in Note 27 that deposits and retention monies held during the year amounted to Kshs.123,192,842. However, supporting schedules and analysis for the retention monies held during the year ended 30 June, 2020 were not provided for audit review.

In the circumstances, the validity and accuracy of accounts payables – deposits and retentions balance of Kshs.838,720 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 County Executive of Mombasa 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.

Emphasis of Matter

Unsupported and Undisclosed Pending Bills

The County Executive of Mombasa had total pending bills of Kshs.2,670,863,155 as at 30 June, 2020, comprising pending accounts payable of Kshs.1,292,729,925, pending staff payables of Kshs.1,014,376,339 and other pending payables of Kshs.363,756,891.

i) Annex 2 to the financial statements shows details of pending accounts payables of Kshs.1,292,729,924 which were due to contractors and suppliers as at 30 June, 2020. However, the payables include pending bills amounting to Kshs.657,979,098 which were not supported by Local Service/Purchase Orders, invoices, signed contracts and delivery notes to confirm that goods were delivered and services were rendered or work was done.

ii) Annex 3 to the financial statements shows pending staff payables balance of Kshs.1,014,367,239 as at 30 June, 2020 which relates mainly to unremitted payroll deductions and due to various statutory authorities, which may attract interest and penalties for late payments.

iii) Records maintained by the Ministry of Health under the National Government indicates that the County Government of Mombasa owes the Ministry a sum of Kshs.682,711,688 which has been outstanding since year 2014. However, the bill was omitted from other pending accounts payable balance of Kshs.363,756,891 as at 30 June, 2020.

iv) Records maintained by the National Treasury indicates that County Government of Mombasa owed Kenya Power Company Ltd a sum of Kshs.53,524,400 as at 30 June, 2020 while records maintained by the County indicates an amount of Kshs.16,814,963. The resulting variance of Kshs.36,709,037 was not reconciled nor explained.

v) The Management did not maintain a register of all accounts payables as required under regulation 100 of the Public Finance Management (County Governments) Regulations, 2015 which requires an accounting officer among others, to maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible.

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

My opinion is not modified in respect to the above matters.

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 key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.13,779,536,038 and Kshs.11,364,759,505 respectively, resulting to an under-funding of Kshs.2,664,776,533 or 19% of the budget. Similarly, the County Assembly expended Kshs.11,283,659,310 against an approved budget of Kshs.13,670,000,000 resulting to an under-expenditure of Kshs.2,386,340,690 or 17% of the budget. Management has attributed the low absorption to late disbursement of the Exchequer by the National Treasury.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

2. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, 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: No. 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 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. Revenue Not Transferred to County Revenue Fund Account

The statement of receipts and payments reflects county own generated receipts of Kshs.3,139,929,445 for the year ended 30 June, 2020. However, verification of County Revenue Fund revealed that an amount of Kshs.2,571,161,737 was collected and banked, resulting in a difference of Kshs.568,767,708, which may have been used at the source. This is contrary to Section 109(2) of the Public Finance Management Act, 2012 which requires each County Treasury, "to ensure all money raised or received by or on behalf of the County Government is paid into the County Revenue Fund account except money that is excluded from payment into that Fund because of *a* provision of this Act or another Act of Parliament, and is payable into another county public fund established for a specific purpose."

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

2. Non-Compliance with the Law on Fiscal Responsibility - Wage Bill

The statement of receipts and payments for the year ended 30 June, 2020 reflects an expenditure of Kshs.5,017,080,368 in respect of compensation of employees representing 44% of the total revenue received of Kshs.11,364,759,505 during the year. The above contravened regulation 25(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County Assembly to set a wage limit which should not exceed 35% of the revenue.

Consequently, Management was in breach of the Law.

3. Other Grants and Transfers

As disclosed in Note 15 to the financial statements, the statement of receipts and payments under other grants and payments is an expenditure of Kshs.199,948,349 for emergency relief and refugee assistance. Although the county had enacted a legislation, "the Mombasa County Disaster Preparedness and Emergency Management 2017", the Management failed to provide evidence that these funds were transferred to the Emergency Fund as required under Section 110 of the Public Finance Management Act, 2012.

The provision of the law states that, "a County Executive Committee may, with the approval of the county assembly, establish an emergency fund for the county government under the name of the County and the fund shall consist of money from time to time appropriated by the county assembly to the Fund by an appropriation law to enable payments to be made in respect of a county when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises."

In the circumstances, the Management breached the Law.

4. Commitments of Local Service Orders (LSOs) After 31 May 2020

Note 17 to the financial statements shows expenditure totalling Kshs.766,438,883 in respect of construction and civil works for the 30 June, 2020. Included in this amount is Kshs.43,128,414 in respect of services rendered by various contractors in respect of which commitments through Local service Orders (LSOs) were all executed after 31 May, 2020.

This is contrary to regulation 50(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that, "all commitments for supply of goods or services shall be done not later than the 31 May each year except with the express approval of the accounting officer in writing." Management has explained that this was as a result of IFMIS challenges.

In the circumstances, the Management breached the Law.

5. Projects Implementation Status

5.1 Delayed Construction of Project

As disclosed in Note 17 to the financial statements, the statement of receipts and payments the construction and civil works expenditure of Kshs.766,438,833 includes an amount of Kshs.87,779,389 paid for construction and development of a sports complex in Mombasa, whose budgeted cost was Kshs.1,768,183,999. The contract was signed on 28 December, 2018 with expected start date of 18 January, 2019 and a contract duration of three years.

Records indicates that the contractor was paid a total of Kshs. 87,779,389 during the financial year 2019/2020 bringing the total payment to Kshs.131,983,989 (approximately 7%) as of 30 June, 2020. However, as at the time of the audit in November, 2020, the project's duration remaining was fourteen months (39% of contract period) to completion yet only 7% of the works had been done and paid for.

5.2 Construction of Early Childhood Development (ECD) Schools

As reported in the previous years, the Department of Education entered into a contract for construction of eight ECDs in eight locations in the financial year 2014/2015 at a total cost of Kshs.214,173,840. The contract duration was 32 weeks, which commenced in May, 2014 and expected completion date was December, 2015.

Note 17 to the financial statements reflect a balance of Kshs.73,277,939 incurred on construction of buildings during the year under review out of which an amount of Kshs.11,050,351 was spent on construction of Early Childhood Development Centres.

However, as at the time of audit in November, 2020, only six ECDs, had been completed while the remaining two had stalled, a delay of five years after the end of the expected date of completion. It was also observed that the contract extension resulted in a price variation of Kshs.16,314,651 which could have been avoided if the project was completed as scheduled.

Under the circumstances it was not possible for the project to be completed within the remaining period and value for money on the expenditure could not be ascertained.

6. Outstanding Imprests

The statement of assets and liabilities indicates that County Government of Mombasa had outstanding imprests balance of Kshs.52,223,680 as at 30 June, 2020. The balance includes imprests amounting to Kshs.14,939,384 which were issued before surrendering the earlier ones, contrary to regulation 93(4) of the Public Finance Management (County Governments) Regulations, 2015. The regulation states that, before issuing temporary imprests, the accounting officer shall ensure that the applicants have no outstanding imprests.

In the circumstances, 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 Control, 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

Management of Fixed Assets

Annex 5 - summary of fixed assets register to the financial statements indicates cumulative assets balance of Kshs.17,745,715,091 as at 30 June, 2020. According to the accompanying disclosure note, the balance of Kshs.17,745,715,091 includes assets bought and inherited by the County Government from the defunct Municipal Council. However, no documentary evidence was provided for audit review to indicate details of assets and liabilities which were handed over to the County Government.

In the circumstances, it has not been possible to confirm the existence of adequate mechanism to safeguard the assets under the County Government of Mombasa.

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 such 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 effectiveness of internal control, risk management and governance.

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 going concern basis of accounting unless Management is aware of the intention to dissolve the County Executive 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 manner.

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 doubts on County Executive's ability 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 sustaining 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
AUDITOR-GENERAL

Nairobi

08 December, 2021