REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF NAKURU 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 Nakuru set out on pages 1 to 44, which comprise of the statement of assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows and the summary statement of appropriation-recurrent and development combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the 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 Nakuru 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. Variances Between Financial Statements and IFMIS Balances

Review of the statement of receipts and payments revealed significant variances with the Integrated Financial Management Information Systems (IFMIS) trial balance presented for audit review as detailed below:

Component	Financial Statement Balances (Kshs.)	IFMIS Balances (Kshs.)	Variance (Kshs.)
Proceeds from Domestic and Foreign Grants	11,703,464	825,975,765	(814,272,3001)
Exchequer Releases	12,029,593,861	9,819,004,935	2,210,588,926
Transfers from Other Government Entities	504,607,352	2,067,281,083	(1,562,673,731)
County Own Generated Revenue	2,440,666,697	1,616,936,523	823,730,174
Compensation of Employees	5,808,698,872	531,271,429	5,277,427,443
Use of Goods and Services	2,338,292,522	2,510,534,703	(172,242,181)
Subsidies	-	91,033,250	(91,033,250)

Component	Financial Statement Balances (Kshs.)	IFMIS Balances (Kshs.)	Variance (Kshs.)
Transfers to Other Government Units	1,168,608,398	2,280,206,627	(1,111,598,229)
Other Grants and Transfers	3,870,128,504	140,261,667	3,729,866,837
Social Security Benefits	-	26,094,004	(26,094,004)
Acquisition of Assets	2,995,320,243	3,421,491,950	(426,171,707)
Other Payments	7,350	90,983,034	(90,975,684)

Management attributed the variances to problems with IFMIS that have not been reconciled.

Consequently, the accuracy and completeness of the above balances included in the financial statements presented for audit for the year could not be confirmed.

2. Inaccuracies in Bank Balances

The statement of assets and liabilities and as disclosed under Note 21A to the financial statements reflects bank balances of Kshs.4,638,229,643. This comprises of balances in fifty-nine (59) bank accounts held at the Central Bank and Commercial banks. Review of the accounts revealed the following unsatisfactory issues: -

2.1. Unsupported Bank Balances

The bank balances of Kshs.4,638,229,643 included an amount of Kshs.63,086,888 held in seven (7) revenue bank accounts which were not supported by cashbooks and bank reconciliation statements. This is contrary to Regulation 100 of the Public Finance Management (County Governments) Regulations, 2015, which requires the Accounting Officers to keep a cashbook showing the receipts and payments for all the accounts.

2.2. Undisclosed Bank Balances

The bank balances of Kshs.4,638,229,643 excluded an amount of Kshs.961,929,503 held in six (6) County bank accounts. Management attributed the exclusion to the fact that the bank accounts related to projects whose funds had been expensed in IFMIS on issuance. However, the project bank account balances have not been appropriately disclosed by way of annexures to the financial statements as required.

Consequently, the accuracy and fair statement of the bank balances of Kshs.4,638,229,643 as at 30 June, 2020, could not be confirmed.

3. Misstatement of Technical Services Fees Income

The statement of receipts and payments and as disclosed under Note 9 to the financial statements reflects County own generated receipts amount of Kshs.2,440,666,697. Included in the amount is Kshs.66,833,353 in respect of technical services fees and approval of building plans. Audit review of the revenue records maintained by the technical services committee at the department of lands and physical planning revealed that Kshs.89,996,483 was collected during the year under review resulting to an unexplained and unreconciled amount of Kshs.23,163,130.

In the circumstance, the accuracy and completeness of the reported County own generated receipts of Kshs.2,440,666,697 could not be ascertained.

4. Unsupported Foreign Travel Allowances

The statement of receipts and payments and as disclosed under Note 12 to the financial statements reflects use of goods and services payments of Kshs.2,338,292,522. Included in this amount is foreign travel cost of Kshs.67,875,326, out of which expenditures amounting to Kshs.2,767,055 were not adequately supported by invitation letters and evidence of travel.

In the circumstance, the accuracy and completeness of foreign travel expenditure of Kshs.67,875,326could not be confirmed.

5. Irregular Transfer of Funds to Nakuru Alcoholic Drinks and Control Board

The Department of Trade, Industry, Marketing and Tourism incurred payments of Kshs.10,498,945 as capital grants and transfers to the Alcoholic Drinks and Control Board. However, the establishment of the Board has not been approved by the County Executive Committee and the County Assembly. Further, the transfer includes Kshs.2,745,400 and Kshs.3,496,345 for payment of allowances and purchase of office furniture respectively, whose expenditure returns and supporting documents were not provided for audit review.

Consequently, the validity of the transfer Kshs.10,498,945 to the Alcoholic Drinks and Control Board and the subsequent expenditure was irregular.

6. Irregular Contribution to Council of Governors

During the year under review, the Office of the Governor and Department of Public Service Training and Development made payments worth Kshs.1,158,934 and Kshs.2,000,000 respectively to the Council of Governors. However, the payments were unauthorized as they were not included in the approved budget for the year. Management did not explain what the contributions related to and reasons why the County was funding the operations of the Council of Governors which had its own budget allocation in line with Section 37 of the Intergovernmental Relations Act, 2012.

Consequently, the validity of the expenditure of Kshs.3,158,934 on Council of Governors could not be confirmed.

7. Irregular Payment of Allowances to Members of County Assembly

During the financial year under review, an expenditure of Kshs.8,357,854 was incurred by the County Executive on foreign training expenses of Kshs.4,620,342, Kshs.1,461,600, Kshs.1,083,328 and Kshs.1,192,584 for Members of the County Assembly of Nakuru through the Departments of Finance and Economic Planning, Public Service Management, Infrastructure and Office of the Governor respectively.

It was however not clear why the expenses of the County Assembly of Nakuru were being paid for by the County Executive contrary to Regulation 42(1) of the Public Finance Management Act, 2012, that mandates the Accounting Officers of County Government entities to ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which they were intended and appropriated by the County Assembly.

Consequently, the validity of the expenditure of Kshs.8,357,854 on Members of the County Assembly of Nakuru could not be confirmed.

8. Irregular Expenditure on Legal Fees

The County made payments of Kshs.41,709,019 in respect of legal fees. However, Management did not provide approvals by the County Attorney for engagement of the private law firms. This was contrary to Section 16 of the Nakuru County Attorney Act, 2017. Further, it was observed that the payments were not supported by requisite documents such as the contract agreements, fee notes and evidence of court sessions attendance, rates applied in line with the advocate remuneration roll and a case file for each of the cases.

In view of the above, the validity of the expenditure of Kshs.41,709,019 on legal fees for the year ended 30 June, 2020, could not be confirmed.

9. Unsupported Pending Bills

The statement of receipts and payments and as disclosed under Note 17 to the financial statements reflects acquisition of assets cost of Kshs.2,995,320,243. Included in the figure is domestic public non-financial enterprises (pending bills) of Kshs.1,365,392,060 that have not been charged to the respective expenditure codes under acquisition of assets. This is in breach of Regulation 40(1) of the Public Finance Management (County Governments) Regulations, 2015. Further, verification revealed that the settled pending bills had not been recorded in the pending bills register contrary to Regulation 100 of the Public Finance Management (County Government) Regulations, 2015.

It has therefore not been possible to confirm the accuracy and the completeness of the reported pending bills balances in the absence of the pending bills register.

10. Unreconciled Assets Register

The statement of receipts and payments and as disclosed under Note 17 to the financial statements reflects an expenditure of Kshs.1,629,928,183 in respect of acquisition of non-financial assets. However, audit review of the fixed assets registers revealed Nil balances for fixed assets as at 30 June, 2020.

Consequently, the accuracy, completeness and ownership of the assets 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 Nakuru 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 period under review.

Other Matter

Budget Control and Performance

The summary statement of appropriation - recurrent and development combined reflects budgeted receipts and actual on comparable basis of Kshs.23,231,285,469 and Kshs.20,658,602,835 respectively resulting to a shortfall of Kshs.2,572,682,634 or 11%. The shortfall was attributed to the underperformances in proceeds from domestic and foreign grants, transfers from other government entities and county own generated receipts of Kshs.1,600,550,223, Kshs.312,799,108 and Kshs.659,333,303 respectively. The low performance on county own generated receipts was attributed to the COVID-19 pandemic.

Out of the revenue amount realized in the year of Kshs.20,658,602,835, only Kshs.16,181,055,889 was absorbed resulting to an under absorption of Kshs.4,477,546,946 or 21.%. Consequently, the County may not have been able to fully fund the planned budget activities for the year thus impacting negatively on service delivery to the residents of Nakuru County.

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. Delayed Development of Valuation Roll

As previously reported, Nakuru County Executive is yet to develop the County valuation roll. Review of the current status of implementation of the project by the Department of Lands, Housing and Physical Planning revealed that the valuation roll is incomplete despite the full payment of contract sum of Kshs.50,591,400 on 5 May, 2018. This was contrary to the contract agreement which provided final payment of 30% be made upon completion and approval of the final draft of valuation report by the County Assembly of Nakuru.

In addition, the status report provided for audit indicated that the final roll was yet to be tabled in the County Assembly as works were still underway on countywide to establish the rates for implementation of the final valuation roll.

In the circumstances, the County Executive Management was in breach of law and may not have received value for money on the contract amount paid.

2. Excessive Wage Bill

The County Executive incurred expenditure of Kshs.5,808,698,872 on compensation of employees representing thirty-eight percent (38%) of the County total revenue of Kshs.14,986,571,375. The expenditure exceeded the prescribed limit of thirty-five percent (35%) on employee costs under Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstance, the County Executive was in breach of the law.

3. Non-Adherence to the One-Third Basic Salary Rule

Analysis of June, 2020 payroll revealed that twenty-one (21) employees were drawing net salary less than one third of their basic salary. This is contrary to Section 19(3) of the Employment Act, 2007, which requires the total amount of all deductions which may be made by an employer from the wages of his employee at any one time not to exceed two-thirds of the basic pay.

In the circumstance, the County Executive was in breach of the law.

4. Excess Transfer to the County Assembly

The County Executive transferred Kshs.1,168,608,398 to the County Assembly. This was in excess of the stipulated seven percent (7%) of total county revenue for the year under review by Kshs.119,548,402 contrary to Regulation 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the approved expenditures of a County Assembly shall not exceed seven per cent of the total revenues of the County government or twice the personnel emoluments of that County Assembly, whichever is lower. Consequently, the County Executive was in breach of the law.

5. Irregular Variation of Prices by Kenya Medical Supplies Authority (KEMSA)

The Department of Health Services made payment of Kshs.7,905,000 to the Kenya Medical Supplies Authority (KEMSA) via payment voucher number 75393 for supply of 3 ply face masks. However, it was noted that the KEMSA made variation to the price charged per unit from Kshs.2,350 in the contract price to Kshs.5,000, resulting in reduction in the quantities delivered by 54%. Further, the price change was only communicated to the County on 12 June, 2020, after the deliveries of the masks had been made on 28 May, 2020. The variation was not supported by way of the prevailing consumer price index obtained from Kenya National Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya as required by Section 139 (4) of the Public Procurement and Asset Disposal Act, 2015. Consequently, the County Executive 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 audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, and 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. Under Collection of revenue

The County Government under-collected revenue on a number of activities as follows:

1.1 Under Collection of House Rent Income

The statement of receipts and payments and as disclosed under Note 9 to the financial statements reflects county own generated receipts balance of Kshs.2,440,666,697. The receipts include, Kshs.20,306,877 in respect of rent collections from property and premises owned by the County. Review of rental records revealed that Kshs.355,436,884 was owed to the County Executive. Further, the County Executive has not carried out review of the rent payable or valuation of its houses in alignment with the market rates. Therefore, the basis upon which the rents are being charged could not be confirmed.

In addition, ninety (90) county houses in Molo Sub-County with annual rent revenue of Kshs.741,132 were being managed by National Housing Corporation as a result of a Kshs.30,460,177 debt owed to the Corporation by the defunct local authorities. No efforts had been made by the County to take charge of the houses.

Management has not demonstrated efforts being undertaken by the County Executive to recover the long outstanding rent amounts. This is contrary to Section (157) (2) of the Public Finance Management Act, 2012 which requires the receiver of County Government revenue to ensure that the revenue for which the receiver is responsible is collected or recovered, and is accounted for.

1.2 Under Collection - Single Business Permit Fees

An analysis of records from Nakuru East Sub - County revealed that a total of eleven thousand five hundred and fifty-one (11,551) business firms applied for Single Business Permits and were invoiced an amount of Kshs.136,786,000 during the year under review. However, review of receipts for the same period revealed that Kshs.94,398,500 from 7,371 or 69% of the invoiced business firms was collected leading to failure to collect Kshs.42,387,500 from the remaining 4,180 business firms. Management did not provided explanation on failure to collect the billed revenue.

1.3 Under Collection of Outstanding Plot and Land Rates

Review of records indicates that the property owners owed the County, Kshs.11,451,487,497 and Kshs.162,067,452 in accrued land rates and plot rents, respectively. However, no effort was made to recover the outstanding revenue during the period under review. This is in breach of Section 157(2) of the Public Finance Management Act, 2012, which requires the receiver of county government revenue to ensure that the revenue for which the receiver is responsible is collected or recovered.

Consequently, the controls over rental income were weak.

2. Lack of Risk Management Policy

During the year under review, Nakuru County Executive did not have a risk management policy or strategy in place to mitigate operational, legal and financial risks. Also, the Management did not have in place a disaster recovery plan. This was contrary to Regulation 158 of the Public Finance Management (County Government), Regulations 2015.

In the absence of a risk management policy, the Management will not be able to identify individual risks, significance areas, likelihood of occurrence of identified risks and the appropriate control measures to be implemented.

3. Lack of Fraud Management Policy

The County Executive did not have in place a fraud management policy during the year under review to assist in detecting and preventing fraud. This was contrary to Regulation 158 (1) of the County Government Regulations, 2015, which states that the accounting officer shall ensure that the county government entity develops risk management strategies, which include fraud prevention mechanism.

No explanation was provided for failure to develop a Fraud Management Policy.

4. Lack of IT Strategic Plan and Committee

Review of information technology systems in use revealed that the County Executive had not established an IT Strategy Committee and did not have an approved IT strategic plan which should provide governance on information technology matters, IT strategic plan and IT security policy. Further, there was no back-up retention strategy or formally documented and approved processes to manage upgrades, implying that there is a possibility of unauthorized changes without change request documentation. The IT department also lacked a formal emergency procedure implying that in case of an emergency the personnel involved might not be aware of the protocols to follow or what is expected of them which may lead to business interference.

5. Payment of Permanent Staff Outside IPPD

A review of the monthly payrolls revealed that twenty-seven (27) staff who joined the County between May, 2017, and December, 2018, had not been included in the Integrated Payroll and Personnel Database (IPPD) system and continued to be paid outside the system. No explanation was rendered for delay in incorporating the employees in the payroll system and the continued payment outside it.

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 overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and overall 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 cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the County Executive’s 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 overall 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 overall 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 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

17 November, 2021