

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF TANA RIVER 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 Tana River set out on pages 1 to 38 which comprise the statement of financial assets and liabilities as at 30 June, 2020 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 Tana River 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. Inaccuracies in the Financial Statements

During the year under review, a comparison of amounts stated in the statement of appropriation recurrent and development combined and amounts stated in 2019/2020 Supplementary Budget II presented for audit revealed the following differences: –

Payments	Statement of Appropriation (Kshs.)	Supplementary Budget II (Kshs.)	Difference (Kshs.)
Compensation of Employees	1,620,231,544	1,606,253,031	13,978,513
Use of Goods and Services	1,614,856,537	1,661,429,407	(46,572,870)
Transfers to Other Government Units	988,918,640	1,037,811,672	(48,893,032)
Other Grants and Transfers	399,474,535	514,203,050	(114,728,515)
Social Security Benefits	34,593,659	21,277,496	13,316,163
Acquisition of Assets	1,226,330,807	1,060,830,802	165,500,005
Other Payments	2,139,195,410	2,121,795,674	17,399,736

In absence of any explanation and reconciliation between the two sets of records, the accuracy of the summary statement of appropriation: recurrent and development combined for the year ended 30 June, 2020 cannot be ascertained.

2. Irregular Payment of Special House Allowance

Review of the Integrated Payroll and Personnel Database (IPPD) for the period between 1 July, 2019 to 30 June, 2020 revealed that the Executive had 259 employees who were earning special house allowances amounting to Kshs.13,099,267 in addition to the normal house allowance paid as part of their salaries. In some instances, the officers earned special house allowance which was more than their normal house allowance.

In absence of any explanation, the propriety on the payment of Kshs13,099,267 charged under compensation of employees as special house allowance could not be ascertained

3. Unsupported Expenditure - Use of Goods and Services

As disclosed in Note 7 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2020 reflects a balance of Kshs.1,847,716,015 under use of goods and services expenditure. However, the following anomalies were noted: -

3.1. Fuel, Oil and Lubricant

The balance includes an amount of Kshs.1,847,716,015 which constitutes an amount of Kshs.47,197,759 on purchase of fuel, oil and lubricants. However, examination of payment vouchers and other records revealed that payments amounting to Kshs.3,669,000 were not supported with motor vehicles work tickets, local purchase orders, delivery notes, invoices and detail orders.

3.2. Domestic Travel and Subsistence Allowance

Further, the balance constitutes payments amounting to Kshs.26,919,071 paid to officers who attended workshops, training and other official duties outside the County. However, the expenditure was not supported with invitation letters, pre-travel approval, requisitions, training programs, attendance registers and there was no report prepared after the officer went back to the office from the training.

3.3. Maintenance of Vehicles

Included in the use of goods and services balance of Kshs.1,847,716,015 is Kshs.25,971,949 incurred on maintenance of vehicles and other transport equipment. However, examination of payment records and other supporting documents revealed that an amount of Kshs.7,774,083 was spent on motor vehicle repairs without pre- and post-certificate of inspection from Department for Mechanical Public Works indicating the nature of repairs and estimated costs to ascertain whether it was economical to repair the motor vehicles. It was also noted that the repairs were not recorded in the vehicle's

logbooks. The work tickets of the vehicles repaired were also not provided for audit review.

3.4. Procurement of Specialized Materials

The balance also constitutes an amount of Kshs.360,137,228 spent on specialized materials and services. However, examination of payment vouchers, procurement records and other supporting documents revealed that the project files for fifteen (15) contracts worth Kshs.55,801,278 did not contain tender documents such as purchase requisition, tender notice, tender opening minutes, appointment letters of the tender opening committee and for tender evaluation committee, minutes of the evaluation committee, notification of award letters of tender to successful bidder, letters of regret to the unsuccessful bidders, letters of acceptance by the winning bidder, contract agreement, inspection and acceptance committee report/minute, and professional opinion.

Further, Management procured two (2) biosafety cabinet class II worth Kshs.1,245,318. Although the equipment were allegedly procured for the County Referral Hospital, physical verification carried out on 11 December, 2020 revealed that the items were not at the County Referral Hospital.

In addition, Management paid for laboratory reagents and other equipment worth Kshs.11,843,272. Although the items were delivered on 17 July, 2019 the items were not recorded in the store ledgers.

3.5. Payments on Legal Services

Included in the use of goods and services balance of Kshs.1,847,716,015 is Kshs.188,406,708 relating to other operating expenses out of which Kshs.75,660,000 were spent on legal services. However, an amount of Kshs.9,500,000 was not supported with case files and their respective procurement details such as tender documents. It was therefore not possible to ascertain whether the services were fairly procured.

3.6. Hire of Motor Vehicles

The balance constitutes Kshs.54,275,472 relating to rental of produced assets which includes an amount of Kshs.28,048,949 spent on hire of motor vehicles. However, examination of payment vouchers and other supporting documents revealed that expenditure totalling to Kshs.9,806,896 were not supported with end user requests, authorization from a designated officer in charge of transport and logbooks to ascertain ownership of the motor vehicles hired. Management did not explain the reasons for the hire of the vehicles since it has fleets of vehicles.

3.7. Printing Advertising and Information Supplies and Services

Further, included in the use of goods and services balance of Kshs.1,847,716,015 is an amount of Kshs.27,045,886 which was spent on printing, advertising and information supplies and services. However, expenditure amounting to Kshs.4,059,000 had the following unsatisfactory matters: -

- i. There were no inspection and acceptance committee reports and end user requests.
- ii. For the payment of advertising expenses, there were no copies of program to be aired and copies of the adverts.
- iii. Quotations supporting the payment did not indicated date when they were supposed to be returned.
- iv. In some cases, suppliers were single sourced and the goods and services were not procured competitively.

3.8. Expenditure for Hospitality, Supplies and Services

The balance also constitutes an amount of Kshs.230,816,717 relating to hospitality supplies and services. However, examination of payment records and other supporting documents revealed that expenditure amounting to Kshs.39,965,141 had the following anomalies: -

- i. Contracts were awarded to suppliers who did not satisfy the mandatory requirements such as valid tax compliance certificates, business permits and also did not submit KRA pin as required by the evaluation criteria.
- ii. End user request notes were not attached to the payment voucher to ascertain if the service were needed and done to the expectation.
- iii. Payments were not supported with programs of events, signed list of participants and venue where the events and workshops were held.
- iv. In some cases, suppliers were single sourced and the goods and services were procured without competitive bidding.

3.9. Office and General Supplies and Services

During the year under review, the County Executive spent a total of Kshs.182,646,025 on office and general supplies and services. However, examination of payment vouchers and other supporting documents revealed that expenditure totaling Kshs.31,092,450 was not supported with local purchase orders, invoices and stores receipts voucher. In addition, the request for quotations supporting the payments did not indicate the description of the items to be procured, quantity and prices of the items. Further, there were no stores ledgers, requisition and issue notes provided to confirm how the items procured were recorded and issued to the user departments.

3.10. Irregular Allowances on Training Expenses

The use of good and services balance of Kshs.1,847,716,015 constitutes an amount of Kshs.57,429,014 relating to training expenses. However, examination of payment records and other documents revealed that five (5) officers who attended various trainings outside the County were paid per diem amounting to Kshs.1,921,200 in excess of the days specified on invitation letters and respective travel records. It was also noted

that one (1) officer was paid Kshs.315,000 per diem allowance for 45 continuous days contrary to Section C.16 (2) of the PSC Human Resource Manual that provides for maximum of 30 days.

In the circumstances, the propriety, regularity and completeness of the expenditure amounting to Kshs.203,911,209 included in the use of goods and services balance of Kshs.1,847,716,015 for the year ended 30 June, 2020 could not be confirmed.

4. Acquisition of Assets

As disclosed in Note 12 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2020 reflects a balance of Kshs.1,433,800,633 under acquisition of assets out of which a balance of Kshs.237,349,634 was incurred on construction of buildings. However, examination of payment records and other documents revealed that Management made payment of Kshs.5,681,457 for construction of social hall. The contract was initiated in financial year 2018/2019. However, contract documents such as project file, Bills of Quantities, minutes and other records relating to the project were not provided for audit review.

Further, an amount of Kshs.32,415,111 was incurred on project implementation during the year but was not supported with project files, advertisements, tender opening minutes, evaluation and awarding minutes, contract agreements, inspection and acceptance reports, site meeting minutes, project status report and certificate of practical completion.

Physical verification carried out revealed that the projects was incomplete and finishing works including plastering, windows and doors and external works had not been done. The contractor was not at the site at the time of the audit and there was no sign of work in progress.

In the circumstances, the propriety of the expenditure amounting to Kshs.38,096,568 incurred on construction of buildings could not be confirmed.

5. Other Grants and Payments

As disclosed in Note 10 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.458,197,821 in respect of other grants and payments. Examination of records and payment documents revealed the following unsatisfactory matters: -

5.1. Irregular Supply, Delivery and Transportation of Relief Food

Included in the other grants and payment balance of Kshs.458,197,821 is Kshs.286,714,845 incurred on emergency relief and refugee assistance out of Kshs.45,551,683 related to supply, delivery and transportation of relief food to various sub-counties. However, examination of payment records and other documents revealed that payments of Kshs.25,853,752 were not properly supported as detailed below-

- i. The payments were not supported with the waybills indicating the point of origin of the foodstuff, number of kilometers covered by the vehicles, the route, names of the committee which received the food and the dates when the foods were received.
- ii. There was no documentary evidence to show the County Department of Health inspected the food stuff to verify the conditions of the food items.
- iii. There was no need assessments report, number of household beneficiaries and distribution schedules showing the identity cards of the beneficiaries and quantity of foodstuff given. It was therefore not possible to confirm whether or not the total amount of foodstuff procured, received and issued out were indeed distributed in full to the intended beneficiaries.
- iv. Further, there was no evidence to show that there were negotiations between the Management, the suppliers and transporters of relief food as required by Section 104(b) of the Public Procurement and Assets Disposal Act, 2015.
- v. The Management did not also carry out market survey, before the procurement of the foodstuff. It was therefore not possible to ascertain whether the relief food procured was supplied at a fair price as required by Section 103(e) of the Public Procurement and Assets Disposal Act, 2015.
- vi. There were no contract agreements signed between the suppliers of the foodstuff and the Management as required by Section 104(d) of the Public Procurement and Assets Disposal Act, 2015.
- vii. Mandatory documents such as business license, certificate of incorporation, tax compliance certificates were not attached to the payment vouchers or provided for audit review as required by Section 68(6) of the Public Procurement and Assets Disposal Act, 2015. It was therefore not possible to ascertain whether the contract for suppliers of the relief food were fairly awarded to the contractors.

5.2. Unsupported Payment of Emergency Relief and Refuge Assistance

Further, the balance constitutes Kshs.458,197,821 in respect of other grants and payment which includes an amount of Kshs.286,714,845 incurred on emergency relief and refugee assistance out of which Kshs.241,163,162 related to water trucking. However, examination of payment vouchers and other supporting documents revealed expenditure amounting to Kshs.49,288,691 was not properly supported as detailed below-

- i. Log books and work tickets of the hired vehicles were not attached to the payment vouchers nor provided for audit review.
- ii. There was no evidence of how the services were procured as contract agreements were not signed between the owners of the vehicles and the Executive contrary to Section 135(1) of the Public Procurement and Disposal Act, 2015.
- iii. Distribution schedule lacked the identity cards number of the recipients of the water or documentary confirmations that the water was delivered to the centers.

- iv. Contrary to Section 86(1) of the Public Procurement and Disposal Act 2015, the contracts were awarded to suppliers who did not satisfy the mandatory requirements as valid tax compliance certificates, business permits and KRA pin as required by the evaluation criteria.
- v. A review of the prequalified list of suppliers for the years 2016-2019 disclosed that the County Executive did not have a list prequalify suppliers for provision of water trucking services hence the suppliers were neither prequalified nor selected competitively contrary to Section 93(1) of the Public Procurement and Disposal Act, 2015.
- vi. The County Executive did not also carry out market survey before undertaking the award of the contracts. It was therefore not possible to ascertain whether the water trucking services were supplied at fair prices contrary to Section 71(4) of the Public Procurement and Disposal Act 2015.

In the circumstances, the propriety and regularity of the expenditure amounting to Kshs.75,142,443 included under other grants and transfers for the year ended 30 June 2020 could not be ascertained.

6. Unaccounted for Payments of Taxes and Retention Money

As disclosed in Note 13 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.164,147,413 in respect of other payments. However, examination of ledgers and other documents revealed that the expenditure was incurred on payment of retention money to contactors and remittances of withholding taxes. Payments documents amounting to Kshs.64,552,204 in respect of retention money were however, not supported with payment vouchers, statements of account detailing the computations of retention money, respective projects' inspection and acceptance certificates, practical completion certificates and projects' handing over certificates.

Further, Management deducted an amount of Kshs.88,732,209 from suppliers as withholding taxes from certified works for various projects. The payments were however, not supported with payment vouchers, statements of account detailing how the withholding taxes have been computed.

In the circumstances, the propriety on the expenditure of Kshs.153,284,413 in respect of retention and withholding taxes 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 Tana River County Executive 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

Pending Bills and Account Payables

Note 7.9 - Other important disclosure to the financial statement for the year under review reflected pending bills balance of Kshs.1,157,939,143 as at 30 June, 2020. However, analysis of the details of the pending bills were not provided in the financial statement.

Further, the County Executive reported pending bills amounting to Kshs.2,421,197,210 in its financial statement for the 2018/2019. Out of this amount, Management paid pending bill amounting to Kshs.2,031,132,042, leaving a balance of Kshs.390,065,168 unsettled. This is contrary to Section 41(2) of the Public Finance Management (County Governments) Regulations, 2015. Which stated that “debt service payment be a first charge to the County revenue fund and the accounting officer shall ensure this is done to the extent possible that the County Government does not default on debt obligation. No explanation was provided for the non-compliance to the regulations.

In addition, Management did not maintain a pending bills register or ledger showing the opening balance, additions during the financial year, amount settled during the year and closing balance as at 30 June, 2020.

My opinion is not modified in respect of the above matter

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 during 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.8,075,1477,524 and Kshs.6,952,431,179 respectively, resulting to an under-funding of Kshs.1,122,716,345 or 14% of the budget. Similarly, the County Assembly expended Kshs.6,513,343,127 against an approved budget of Kshs.8,075,1477,524 resulting to an under-expenditure of Kshs.1,561,804,397 or 19% 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 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. Non-Compliance with the One Third of Basic Salary Rule

During the year ended 30 June, 2020, nineteen (19) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management has not given explanation for failure to comply with the policy.

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

2. Non-Compliance with the Public Procurement and Asset Disposal Act, 2015

During the year under review, the Management spent an amount of Kshs.360,137,228 on specialized materials and services. However, examination of payment vouchers, procurement records and other supporting documents revealed that tender evaluation and opening minutes for three (3) contracts worth Kshs.18,695,072 were not signed appropriately as provided by of Section 80 (7) of the Public Procurement and Assets Disposal Act, 2015 which states that the evaluation report shall be signed by each member of evaluation committee who shall append his or her signature as well as initial to the final page of the minutes indicating their full name and designation.

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

3. Unaccounted for Communication Supplies and Services

The County Executive spent Kshs.22,297,287 on communication, supplies and service. However, examination of payment vouchers and other supporting documents revealed that expenditure amounting to Kshs.8,097,444 was made in respect to a tender for the provision of regular maintenance of Media Broadcasting Equipment service which was awarded to a bidder who did not meet the preliminary tender evaluation criteria as

required by Section 86(1) of the Public Procurement and Disposal Act, 2015. The payment was not supported with end user requisition notes, local service order/local purchase order, invoices, tender evaluation reports and tender opening registers as required by Section 68(6) of the Public Procurement and Disposal Act, 2015. Further, the bidder awarded the contract was not in the list of prequalified suppliers as required by Section 57 of the Public Procurement and Disposal Act, 2015.

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

4. Acquisition of Assets

As disclosed in Note 12 to the financial statements, the statement of receipts and expenditure reflects an expenditure of Kshs.1,433,800,633 on acquisition of assets. However, examination of records on the payments revealed the following anomalies;

4.1 Construction of Roads

Included in the acquisition of assets balance of Kshs.1,433,800,633 is Kshs.430,456,266 incurred on construction of roads out of which Management through the Department of roads entered into a contract with a construction company for the construction of Bangali-Mbalambala road during the financial year 2018/2019 at a total contract price of Kshs.11,140,060. The contractor was paid Kshs.6,873,794 during the financial year 2018/2019 and a further payment of Kshs.3,312,116 was made during the financial year under review. However, physical verification carried out on project revealed the following anomalies:

- i. Heavy grading was to be done at a cost of Kshs.3,900,000 as per the specifications of the bill of quantities but light grading was done and therefore the road was loose, unlevelled and easily wearing off.
- ii. Existing culverts which were supposed to be repaired, replaced and cleaning done to remove accumulated silt at a cost of Kshs.224,000 was not done.
- iii. The Bill of Quantities, BQ had provided the diameter of the new culverts to be 900mm, but the culverts installed were of 600mm diameter while the backfilling specified in BQs was not done properly making mobility for the road users difficult.
- iv. The Bill of Quantities had provided the erection of a signboard costing Kshs.50,000 However, there was no signboard showing that the work was undertaken by the County Executive.

In the circumstances, the value for money on payments for the project expenses amounting Kshs.3,312,116 could not be ascertained.

4.2 Construction of Buildings

The balance includes an amount of Kshs.237,349,634 incurred on the construction buildings. However, examination of payment records, tender documents and other documents for an expenditure amounting to Kshs.170,656,849 revealed that the County

Executive awarded seven (7) contracts amounting Kshs.115,042,704 for construction of slaughter house, health facility, administration blocks and public pit latrine at various sub-counties through open tender. It was however, observed that regret letters sent out to the unsuccessful bidders did not indicate the identities of the winning bidders as required by Section 87(3) of the Public Procurement and Disposal Act, 2015.

Further, the projects were implemented without NEMA certification for Environmental and Social Impact Assessment contrary to Section 117 of National Environment Act, 2019 while the appointment letters of inspection and acceptance committee members who inspected the implementation of the projects was not provided for audit review.

In addition, the Management awarded a contract for the construction of Madogo Slaughter House at Madogo Township at cost of Kshs.17,517,577. Physical verification revealed that the project was completed and full payment made on 29 April, 2020 but had not been put to use six months after its completion.

In the circumstances, Management is in breach of the law and the value for money on expenditure of Kshs.132,560,281 incurred on construction of building as at 30 June, 2020 could not be confirmed.

4.2 Construction and Civil Works

Further the balance includes an amount of Kshs.287,589,316 incurred on construction and civil works. However, examination of payment records and other documents provided for audit revealed the following: -

4.3.1 Improvement of Playground at Garsen South Ward

During the financial year 2018/2019, the Management awarded a contract for improvement of playground at Garsen South Ward to a company at a contract sum of Kshs.3,094,996. Review of expenditure records, vouchers, project file and other documents revealed that the payment was not supported by an approved project work plan/relevant architectural drawing, a feasibility study on sustainability, a signed professional opinion from the head of supply chain and inspection and acceptance report.

Physical verification done on the project indicated that the playground was not in a usable condition. It was overgrown with bushes, shrubs and thickets, an indication that bush clearing, site clearance, excavation, planking, strutting, hardcore filing, depositing and compacting was poorly done. Both the roof and doors on the field shade and the toilets had been vandalized. There was no signboard at the project site and thus ownership of the project could not be confirmed.

In the circumstances, the value for money on expenditure of Kshs.3,094,996 with respect to Improvement of Playground at Garsen South Ward incurred during the year could not be ascertained.

4.3.2 Delivery and Installation of Weigh Bridge

Further, during the financial year 2018/2019, Management awarded a contract for the delivery and installation of a weigh bridge at Hurara at a contract sum of Kshs.18,619,392. However, examination of payment vouchers, project file and other documents provided for audit review revealed that the payment was not supported with inspection and acceptance report and Bill of Quantities. Although full payment was made to the contractor, physical verification carried out during the audit revealed that the project was incomplete. Access road to the weighing bridge was not cleared and the alphanumeric indicator, laser jet printers and 5XR screens had not been fitted. There was no project sign board at the project site and thus ownership of the project could not be confirmed.

In the circumstances, the value for money on Kshs.18,619,392 incurred on the Delivery and Installation of Weigh Bridge could not be ascertained.

4.3.3 Unsupported Expenditure on Construction and Civil works

During the under review, the County Executive made payments totalling Kshs.287,589,316 for construction and civil works. However, Management did not provide procurement records and payment vouchers for works amounting to Kshs.17,340,833 for audit review. It was further observed that the project files, tender opening registers, letters of notification to unsuccessful bidders, certificates of practical completion, inspection and acceptance reports, signed professional opinion reports from the head of county executive supply chain, engineers' estimates and filled bills of quantities were not maintained contrary to Section 68 of the Public Procurement and Disposal Act, 2015

In the circumstances, value for money on expenditure amounting to Kshs.17,340,833 incurred on construction and civil works could not be confirmed.

4.4 Unsupported Refurbishment of Buildings

Included in the acquisition of assets balance of Kshs.1,433,800,633 is an amount of Kshs.110,565,285 on refurbishment of buildings. However, examination of payment vouchers and procurement documents revealed the following anomalies: -

- i. Project files for seven (7) contracts worth Kshs.24,937,876 did not contain tender documents such as tender notice, tender opening minutes, letter of appointment of the tender opening committee, appointment letter for tender evaluation committee, minutes of the evaluation committee, notification letter of tender award to the successful bidder and unsuccessful bidders, letter of acceptance by the winning bidder, contract agreement, inspection and acceptance committee report/minute and professional opinion recommending the approval.
- ii. Management awarded contract for repairs works for Delta Sub-County office at Minjila at a contract sum of Kshs.3,981,032. According to the Bill of Quantities (BQ), the works included renovations, electrical works and supply of firefighting

equipment's, carpet and curtain slides. However, physical verification revealed that the firefighting equipment's and curtain slides costing Kshs.620,000 and Kshs.45,000 respectively were not done.

In the circumstances, value for money on expenditure amounting to Kshs.25,602,876 incurred on refurbishment of building as at 30 June, 2020 could not be confirmed.

4.5 Purchase of Specialized Plant and Equipment

The balance constitutes an amount of Kshs.1,433,800,633 out of which Kshs.99,260,703 was incurred on purchase of specialized plant equipment and machinery. However, examination of payment records and supporting documents revealed that payments totalling Kshs.16,539,560 was not supported with signed professional opinion document from County procurement office while signed business questionnaire was not properly filled contrary to Section 84 of the Public Procurement and Asset Disposal Act, 2015.

Further, the letter appointing inspection and acceptance committee and minutes or certificate of inspection and acceptance committee were not attached to the payment vouchers or provided for audit review contrary to Section 48 of the Public Procurement and Disposal Act, 2015.

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

4.6 Procurement of Office Furniture and General Equipment

Included in the acquisition of assets balance of Kshs.1,433,800,633 is Kshs.24,728,117 incurred on purchase of office furniture and general equipment. However, examination of payment vouchers and other supporting documents revealed an amount of Kshs.13,987,700 was not supported as follows: -

- i. Quotations were not attached to most of payment vouchers and where attached the dates when quotations were supposed to be returned by the suppliers were not indicated.
- ii. Counter receipt vouchers (S13) and other store records were not provided for audit while the furniture and equipment procured were not recorded in the assets register. It was therefore not possible to confirm whether the goods purchased were actually received and used for the intended purpose.
- iii. Some of the winning bidder did not provide VAT registration certificate and Tax compliance which were mandatory requirement for the award of the contracts. It was therefore not clear how the suppliers were selected for award of the contract.

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

5. Unapproved Withdraws of Funds from the County Revenue Fund

During the year under review, the Tana River County Appropriation Act, 2019 was assented to on 17 July, 2019. However, audit review of the County Revenue Fund Account statement for the month of July 2020 reflected debit transactions amounting to Kshs.558,625,935 that took place between 1 July, 2019 and 17 July, 2020. The withdrawal from the County revenue fund was not approved by the County Assembly, contrary to Regulation (36)(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that; 'where the County Appropriation Act is not assented to or is not likely to be assented to before the first working day of the financial year, the Speaker to the County Assembly, with approval of County Assembly, shall communicate to the County Executive Committee Member of Finance and Economics Planning to grant of authority to withdraw from the County Revenue Fund of monies of an amount not exceeding one-half of the amount included in the estimates.

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

6. Non-Submission of Statutory Deductions (KRA P.A.Y.E)

During the year under review, Management made deductions for Pay As You Earn (PAYE) amounting to Kshs.255,371,740 from the staff members. However, examination of payment vouchers and bank statements for the month of June, 2020 revealed that PAYE totalling Kshs.19,345,005 was not remitted within the statutory timelines contrary to Section 83 Tax Procedures Act, 2015. The non-remittance of PAYE on time is likely to attract 25% penalty and 1% interest amounting to Kshs.4,836,251.

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 Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Compensation of Employees

1.1 Lack of Staff Establishment

During the year under review, Management did not maintain an approved staff establishment that indicates the optimal number of staff and skills required in each category thus making it impossible to ascertain the optimal number of employees required for each Department.

In the absence of the approved staff establishment, it was not possible to ascertain whether the County Executive has the right human resource and professional mix and whether it is operating within the optimal level of staff establishment.

1.2 Irregular Engagement of Casual Employees

During the year under review, the Management had engaged a total of 718 casuals. The following observations were made: -

- i. There were no formal requests done from the departmental heads (Chief Officers) on the need for engaging casuals.
- ii. Records in respect of how temporary employees were hired, the work for which they were hired, reason for their recruitment, terms and conditions of services were not provided for audit review.
- iii. Muster rolls showing attendance of the casual workers were not also provided for audit review to confirm the existence of the temporary employees and their work station.

In the circumstances, the existence of effective internal controls procedures regarding engagement of casual workers could not be confirmed.

2. Un-Supported Fixed Assets Balances

Annex 5 to the financial statements reflects total fixed assets balance of Kshs.4,748,838,154 as at 30 June, 2020. Review of records and supporting documents revealed the following anomalies: -

- i. Separate sheet was not maintained for each specific class of assets.
- ii. For standard assets, the asset register did not indicate the tag number, serial number, model/type and date of delivery.
- iii. For land/buildings, the asset register did not indicate the mode of acquisition, category of land, L.R. certificate number, document of ownership held, size of

land, acquisition date, registration date, encumbrances, planning status and the cost of acquisition.

- iv. For roads infrastructure, the assets register did not indicate the roads description/name/type, the length of the road, date of commissioning, class of road, land registry ID and acquisition amount.
- v. For motor vehicles, the assets register did not indicate the engine number, chassis number, tag number and year of purchase.
- vi. In addition, according to the supplementary budget for 2019/2020 financial year the Executive had a budget of Kshs.20,000,000 for motor vehicle insurance. However, the funds were not spent and it was not clear how the County vehicles operated without insurance cover and why the amount budgeted for motor vehicles insurance services were not spent.

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

3. Lack of Approved Internal Audit Charter

During the year under review, Management did not have an approved Internal Audit Charter that spells out the internal audit purpose, authority and responsibility and the effectiveness of the internal audit unit is doubtful.

Consequently, the internal audit function cannot be guaranteed and may not be effective in the management of public resources.

4. Implementation of E-procurement System

The Management started implementing e-procurement system for its procurement of goods, works and services on the month of September, 2019. However, review of payment vouchers and project files disclosed that most of the procurements for the 2019/2020 financial year were implemented manually.

In the circumstances, the Management have not instituted strong checks in procurement function by failing to implement the Executive Order No.2 of 2018.

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 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 financial reporting process, reviewing the effectiveness of how the County Executive 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 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 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 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

08 December, 2021