

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF NYAMIRA FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Nyamira set out on pages 1 to 21, which comprise the statement of financial assets and liabilities as at 30 June, 2019, statement of receipts and payments, statement of cash flows, and the statements of comparison of budget and actual amounts: 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 Assembly of Nyamira as at 30 June, 2019, 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. Unsupported Compensation of Employees

As disclosed under Note 2 to the financial statements, the statement of receipts and payments reflects compensation of employees' balance of Kshs.307,739,088. However, the balance includes salaries to ward staff amounting to Kshs.2,518,000 which was paid outside the Integrated Personnel and Payroll Database (IPPD) payroll. Management did not avail supporting documents for audit review for the recruitment of ward staff such as advertisements, interview process, shortlisting schedule and subsequent evidence of their admission in the staff establishment. It was also noted that each of the twenty (20) wards had four (4) members of staff contrary to the ceiling of three (3) members set by Commission on Revenue Allocation Circular.

Consequently, the validity of compensation of employees of Kshs.2,518,000 included under compensation of employees in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

2. Unsupported Expenditure - Use of Goods and Services

As disclosed under Note 3 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.238,868,417 in respect of use of goods and

services. The balance includes an amount of Kshs.2,570,200 paid to various hotels for the provision of hospitality services under hospitality, supplies and services. However, examination of records revealed that the expenditure was committed in the 2017/2018 financial year but was not disclosed in that year's list of pending bills.

Consequently, the completeness, accuracy and validity of use of goods and services of Kshs.238,868,417 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

3. Variances Between Integrated Financial Management Information System (IFMIS) Reports and Financial Statements

A comparison of balances reflected in the financial statements and the Integrated Financial Management Information System (IFMIS) reports revealed some unreconciled variances as shown below:

Transaction Details	Amount as per Financial Statements Kshs.	Amount as per IFMIS Reports Kshs.	Variance Kshs.
Receipts	653,321,800	597,529,167	55,792,633
Cash and Bank	2,864,891	877,016,348	(874,151,457)
Payables	0	1,516,358,775	(1,516,358,775)

In the circumstances, the accuracy and completeness of the balances reflected in the financial statements for the year ended 30 June, 2019 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Nyamira Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

1. Pending Bills

As disclosed in Note 4.10 to the financial statements, the County Assembly had pending bills amounting to Kshs.12,263,985 which were not settled during the year under review but were carried forward to 2019/2020 financial year. The bills constitute accounts payables and pending staff payables balances of Kshs.12,195,335 and

Kshs.68,650 respectively. Management has not explained why the bills were not settled during the year they occurred.

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

2. Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements. Although the Management has indicated that the issues have been responded to, the matters remained unresolved as the Senate had not deliberated on them.

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. Delay in Construction of Projects

1.1. Construction of Office Block

During the year under review, the Management awarded a multi-year project contract for the construction of a six-floor office block at a contract sum of Kshs.367,000,000. The contract was to run for a period of one hundred and fifty six (156) weeks commencing 13 June, 2018 to 13 June, 2021. The budgetary allocations for the year under review was Kshs.117,174,315 as per the County Integrated Development Plan (CIDP).

However, physical verification on progress of the project carried out in the month of October, 2019 revealed that a total of Kshs.44,091,179 had been paid, however the building was behind schedule by six months.

1.2. Construction of Car Park, Perimeter Fence, Access Road, Gate and Gate House

A contract for the construction of the car park, perimeter fence, access road, gate and gate house was awarded to a contractor at a contract sum of Kshs.27,625,516. The contract agreement was signed on 24 June, 2016 for a period of one hundred and eighty (180) days to run until 24 December, 2016.

However, physical verification carried out on the project during the month of October, 2019 revealed the following anomalies in relation to construction of the perimeter fence:

Description of Work	Bill of Quantity Value Kshs.	Work done (%)
Sub-structures	4,629,550	35%
Superstructure	998,950	39%
Finishes	1,244,750	40%
Chain Link Fence	322,000	0%
Electrical Works	3,600,000	5%
Project Managers Expenses	250,000	80%
Contingencies	1,000,000	0%
Mechanical works	600,000	0%
Total	12,645,250	

It was noted that substantial works on the perimeter fence was yet to be completed long after the lapse of the contract period. The project completion was therefore behind schedule. Management has not given any satisfactory explanations for the delays.

Consequently, it is not possible to confirm if the residents will realize value for money due to the delay.

2. Payment of Penalties and Interests to Kenya Revenue Authority

During the year under review, the Management paid Kshs.701,094 to the Kenya Revenue Authority (KRA) as penalties and interest as a result of LAPFUND not remitting PAYE arising from gratuity which was paid to the Speaker of the County Assembly and MCAs during the period between June, 2012 to June, 2016 that had resulted from unpaid taxes of Kshs.2,124,529. The penalties and interests were not budgeted for because the same ought to have been paid by the LAPFUND and not the County Assembly of Nyamira. Management has not taken any action to determine the officer(s) who may have occasioned the loss of public resources.

Consequently, the regularity of the expenditure of Kshs.701,094 constituted a waste of public resources.

3. Over Commitment of Salary Budget

Review of the payroll records revealed that there existed several employees who were earning less than a third of their basic pay during the year under review contrary to the provisions of Section 19(3) of the Employment Act, 2007.

Consequently, the Management 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, 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. Weak Internal Audit Function

The County Assembly has an Internal Audit Unit which was not adequately staffed. In particular, the Principal Internal Auditor's position has not been filled. The unit had only two (2) officers serving in the level of Senior Internal Auditor and Internal Auditor. Further, Management did not avail supporting documents as evidence that the unit had an Internal Audit Charter to guide it on carrying out audit assignments.

Further, there was no evidence that the Audit Committee met quarterly during the year under review.

Consequently, I am unable to confirm the effectiveness of the Internal Audit Function and the overall governance of the County Assembly.

2. Lack of Risk Management Policy

Management did not avail supporting documents as evidence that the County Assembly had developed a comprehensive Risk Management Policy. Further, there was no documentary evidence to confirm that the Assembly conducted a risk assessment and compiled a report identifying the potential risks, the likelihood of their occurrence and the mitigating strategies in the year 2018/2019.

Consequently, I am unable to confirm existence of an efficient risk management process in the County Assembly.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. These 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 Assembly'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 intention to dissolve the County Assembly or to cease operations.

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

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

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how the County Assembly 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 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 Assembly'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 Assembly 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 Assembly 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

09 February, 2021