

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

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of County Assembly of Tharaka-Nithi set out on pages 1 to 27, which comprise the statement of financial assets and liabilities as at 30 June, 2019, and statement of receipts and payments, statement of cash flows, statement of comparison of budget and actual amounts - recurrent and development combined 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, the financial statements present fairly, in all material respects, the financial position of the County Assembly of Tharaka-Nithi 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 Public Finance Management Act, 2012 and the County Governments Act, 2012.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Tharaka-Nithi 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 opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. I have determined that there are no key audit matters to communicate in my report.

Other Matters

Pending Accounts Payable

Annex 1 and 2 - Other disclosures to the financial statements shows pending accounts and staff payables of Kshs.10,517,225 (2018: Kshs.15,643,872) and Kshs.7,766,190 (2018: Kshs.2,294,932) respectively. However, the County Assembly did not have in place, a detailed creditors' ledger or register showing the age and movements of the outstanding payables during the year. Further, the County Assembly did not have sufficient cash reserves as at 30 June, 2019, to pay the pending payables totalling Kshs.18,283,415 for the goods and services consumed.

Had the pending bills been paid and expenditure charged to the accounts for the year, the statement of receipts and payments would have reflected a deficit of Kshs.17,534,018 instead of the reported surplus of Kshs.749,397 now shown.

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 discussed 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. Compliance with the Public Finance Management Act, 2012

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects expenditure on use of goods and services of Kshs.153,089,155 (2018 -Kshs.129,923,181 restated) which includes an amount of Kshs.57,939,623 on account of domestic travel and subsistence allowances. The balance of Kshs.57,939,623 further includes an amount of Kshs.5,901,600 being payments made to Members of the County Assembly and other staff as per diem allowances for travels outside the County for purposes which would ordinarily have been achieved at their offices which included discussing annual development plan, scrutinizing the budget, preparation of financial statements, report writing of county sports, review of land petitions and review of mandate, responsibilities and working together.

The above is contrary to the provisions of Regulation 42(1)(b) of the Public Finance (County Governments) Regulations, 2015, and Treasury Circular No. 20/2015 dated 4 November, 2015, which suspended movement of state and public officers for purposes of transacting business that would ordinarily be done in the offices.

2. Irregular Procurement of Furniture for Ward Offices

As disclosed under Note 7 to the financial statements, the statement of receipts and payments reflects expenditure on acquisition of assets of Kshs.5,752,250 (2018 - Kshs.17,255,650). A review of the documents in support of the expenditure revealed an amount of Kshs.4,288,050 paid to a firm for the supply and delivery of Ward office furniture. However, scrutiny of the available tender documents revealed that a firm which had procedurally bid for the supply had quoted a price of Kshs.3,949,500, and was lower than that of the firm which was awarded the contract, had been disqualified for lack of brochure or catalogue. The grounds used for disqualifying the bidder were contrary to Section 133(1) of the Public Procurement and Asset Disposal Act, 2015.

In addition, a review of the disqualified bidder's documents revealed that the brochures/catalogue of furniture had indeed been included in the bid documents. The County Assembly Management may have unlawfully disqualified the bidder on false grounds. Had the bidder been evaluated as per the law, and awarded the tender, the County Assembly could have made a saving of Kshs.338,550, being the difference between the awarded contract amount and that quoted by the bidder.

Further, the payment lacked proof of contracting of the firm by the County Assembly and evidence of it having tendered to supply the furniture in the tender register and tender opening minutes as provisioned for under Section 135 of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, the Management was in breach of the law and the effectiveness and value for money on the use of the public resources could not be ascertained.

3. Poor Human Resource Practices

A review of payroll and other personnel records revealed that an employee who resigned on 4 June, 2019 and opted to leave immediately did not pay the County Assembly one-month's salary in lieu of the notice pursuant to Section 35(1)(c) of the Employment Act, 2007 (Revised 2012). Instead, the employee was paid a salary of Kshs.162,310 for the month of June, 2019 despite not having worked.

Further, review of a sample of personnel files and other related records revealed that a number of re-designations were made by the County Assembly Service Board during the year. However, the County Assembly Management did not provide evidence by way of operational requirements to justify the re-designations. There was no evidence that the re-designations were conducted competitively or whether the officers had the requisite competencies. In addition, Management has not provided evidence whether the affected individuals had consented; as required under Section 69(2) of the County Governments Act, 2012 and Section 4.19 (3) the County Assembly Human Resources Manual which provides for existence of the vacancy, competency, fairness and officer's consent to re-designation.

Consequently, the Management was in breach of the law.

4. Irregular Transfers of Funds

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects payments on use of goods and services amounting to Kshs.153,089,155 (2018 - Kshs.129,923,181 restated) which includes an amount of Kshs.22,972,700 on account of other operating expenses. The above payment of Kshs.22,972,700 constitutes transfers of Kshs.5,300,000 and Kshs.500,000 to the County Assembly Forum (CAF) and Society of Clerks at the Table (SOCATT) respectively. Further, the County Assembly incurred related expenditure by way of subsistence allowances to Members of the County Assembly amounting to Kshs.3,913,700 while attending events in Naivasha, Mombasa and Kisumu organized by the Society on various dates during the year under review.

However, the two bodies which the County Assembly was paying subscriptions to were not anchored in law and the expenditure incurred could not be confirmed as a proper charge to public funds.

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 complying, 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 sections of my report, I confirm that, nothing else has come to my attention to cause me to believe that that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Lack of an Approved Training Plan

Included in the amount for use of goods is Kshs.18,390,600 spent on training expenses. However, the County Assembly did not have an annual training plan for the year under review. Such a plan should indicate the individual Member or staff training needs, as well as approval from the Training Committee. This would inform the training budget allocation and its utilization.

In the circumstances, the regularity of the training expenditure amounting to Kshs.18,390,600 could not be confirmed.

2. Payment of Ward Office Expenses Using Imprest

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects an amount of Kshs.153,089,155 under use of goods and services which includes an amount of Kshs.22,972,700 in respect of other operating expenses. The balance of Kshs.22,972,700 includes Kshs.11,934,500 issued to an employee of the County Assembly through temporary imprest to cover payment of Ward expenses across the County. The expenditure paid related to office rent and other daily operational expenses at the Ward offices. However, it was not clear why rental payments were being made through cash as opposed to direct remittances to the landlords as per the signed tenancy agreements.

Further, there were no clear guidelines on use of imprest issued, and how the same was to be accounted for.

3. Lack of Risk Management Policy

A review of the County Assembly's Information Technology (IT) control environment, risk management and disaster preparedness level revealed that the County Assembly lacked formally approved risk management policies such as Disaster Recovery Plan, Business Continuity Plan, IT Strategic Plan and IT Management Policy contrary to requirements of Regulation 158(1)(a) of the Public Finance Management (County Governments) Regulations, 2015.

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 overall governance.

In preparing the financial statements, management is responsible for assessing the County Assembly'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 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 County Assembly's financial reporting process, reviewing the effectiveness of how the entity monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them, and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal

control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of 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 County Assembly's 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 going concern 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

18 November, 2020