

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF MARSABIT FOR THE YEAR ENDED 30 JUNE, 2021

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal control, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Marsabit set out on pages 1 to 39, which comprise the statement of financial assets and liabilities as at 30 June, 2021, and the statement of receipts and payment, statement of cash flows and statement of comparison of budget and actual amounts 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 effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of Marsabit County Assembly as at 30 June, 2021, 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 Government Act, 2012,

Basis for Qualified Opinion

1.0 Unsupported Domestic Travel and Subsistence Allowances

Note 5 to the financial statements reflects a balance of Kshs.387,129,032 in respect to use of goods and services, which includes Kshs.76,257,725 in respect to domestic travel and subsistence allowances which further includes Kshs.18,554,600 incurred on various retreats, training activities and workshops held by the County Assembly throughout the year.

However, supporting documents were not availed for audit review contrary to Section 162 of Public Finance Management Act, 2012, which requires a public officer to ensure that resources within the officer's area of responsibility are used in a way that is lawful and authorized, effective, efficient, economical and transparent.

In the circumstances, the validity of the expenditure of Kshs.18,554,600 on domestic travel and subsistence allowance for the year ended 30 June, 2021 could not be confirmed.

2.0 Compensation of Employees

2.1 Over Commitment of Salary

Note 4 to the financial statements reflects Kshs.192,000,000 in respect to compensation of employees. However, an analysis of employee personal files, Integrated Payroll and Personnel Database (IPPD) and Manual Payroll revealed that two employees received net pay which was below 1/3 of their basic pay contrary to Section 19 (3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee shall not exceed 2/3 of such wages.

2.2 Staff Payment Outside Integrated Payroll and Personnel Database (IPPD)

Further, during the year under review a total of Kshs.1,089,600 were processed outside IPPD in respect to two staff members who were on a 3-year contract. However, it was not possible to ascertain the accuracy of this amount as the manual system requires manual calculation of deductions, net pay and constant monthly and/or annual updates which could be subject to errors. Also, it was not possible to establish why management did not pay all its employees using the IPPD.

In the circumstances the accuracy and completeness of the manual payroll balance of Kshs.1,089,600 for the year ended 30 June, 2021 could not be ascertained.

3.0 Other Grants and Transfers - Membership Fees, Dues and Subscriptions

Note 8 to the financial statements reflects Kshs.5,500,000 in respect to other grants and transfers being membership fees, dues and subscriptions paid to the County Assembly Forum and to the Society of Clerks at The Table (SOCATT). However, a review of the SOCATT and CAF reveal that these bodies do not draw their mandate from the Constitution of Kenya or an Act of Parliament. In addition, the final approved budget for the period 2020-2021 does not have a provision for the payment of these subscriptions. Therefore, the basis of the payments made to these bodies is not legally supported and is contrary to Public Finance Management (County Governments) Regulations no. 105 (1) which explains that an Accounting Officer may authorize payment vouchers provided such expenditure is in respect of and within the provision of the services in a County Treasury warrant and in accordance with the law and regulations.

Therefore, it could not be confirmed if the expenditure was a proper charge to public funds. In addition, no evidence of an equivalent benefit to the County Assembly was availed for audit review.

4.0 Delay in Completion of Construction of Chambers for the County Assembly.

Note 10 to the financial statements reflect a balance of Kshs.73,446,405 in respect of acquisition of assets which includes Kshs.51,179,727 in respect to the payment made for the construction of chambers for the County Assembly of Marsabit. However, records available shows that the Marsabit County Assembly awarded the tender to a firm at a contract sum of Kshs.344,205,660 for a period of seventy (70) weeks and the Chamber was to be completed by 28 August 2019. However, the project as at the time of audit in October, 2021 was still in progress almost two (2) years past the completion date.

Further, the Project management and oversight on implementation of the project could not be confirmed since the county assembly did not provide evidence that the project management and other stakeholders including representatives of the county assembly held site meetings to assess the implementation of the project and confirm the metrics during the engineers visit to give valuation certificates for payments.

Consequently, County Assembly has not realized value for money due to delays in completion of the project and the quality of work and therefore user acceptability may not be guaranteed in the absence of involvement in the project management.

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

1.0 Budgetary Controls and Performance

1.1 Analysis of Receipts

The statement of comparison of budget and actual amounts - recurrent and development combined reflects approved final budgeted receipts of Kshs.859,885,589 and actual receipts of Kshs.691,321,023 resulting to a budget shortfall of Kshs.168,564,566 or 20% of the budgeted receipts. The explanatory notes to the statement indicate that this budget shortfall was due to underfunding of the budget by the National Treasury.

The shortfall of Kshs.168,564,566 represents budgeted goods and services that were not delivered to the residents of Marsabit County. There is need therefore for the management to review its budget making process with a view to formulating a realistic budget that would be actualized for service delivery to the citizens of Marsabit County.

1.2 Analysis of Expenditures

Note 10 to the financial statements reflect Kshs.73,446,405 in respect of acquisition of assets, which includes Kshs.51,179,727 in respect to construction of buildings which exceeded the County Assembly approved development budget on construction of buildings of Kshs.31,000,000 by Kshs.20,179,727 contrary to the Public Finance Management Act, 2012 and the County Government Regulations 2015 section 50 (2) that require expenditure commitment to be controlled based on allocations and allotments from approved budget.

2.0 Prior Year Unresolved Issues

In the report of the previous year, issues were raised under Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, although the Management has indicated that some have been resolved, the matters remained unresolved as the Senate is yet to deliberate on the Report for 2019/2020.

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 and Qualified Opinion sections 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

Training and Workshops Outside the County

Note 5 to the financial statements reflects a balance of Kshs.387,129,032 on use of goods and services, which includes Kshs.76,257,725 in respect to domestic travel and subsistence allowances, which further includes Kshs.8,682,500 incurred on payments of

per diem allowances while on training, workshops and committees' retreats conducted by the County Assembly at various venues outside the County Assembly contrary to Treasury Circular Ref No ES.1/03 J (79) of 4 November, 2015 that states that all workshops and retreat with majority of participants drawn from the same station should be held within the duty station.

In the circumstances, 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 comply, 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 Qualified Opinion section of my report, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

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 governance.

In preparing the financial statements, Management is responsible for assessing the County Assembly of Marsabit's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the County is aware of the intention to dissolve the County Assembly of Marsabit 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 of Marsabit'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 of Marsabit 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 of Marsabit'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 of Marsabit 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 of Marsabit 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

31 May, 2022