

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF NAKURU 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 controls, 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 Nakuru set out on pages 15 to 50, which comprise of the statement of financial assets and liabilities as at 30 June, 2021, statement of receipts and payments, statement of cash flows and statement 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 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 County Assembly of Nakuru 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 Public Finance Management Act, 2012 and County Governments Act, 2012.

Basis for Qualified Opinion

1.0 Variance Between Financial Statements and Integrated Financial Management Information System (IFMIS)

A review of balances disclosed in the financial statements and the supporting Integrated Financial Management Information System (IFMIS) ledger balances revealed several variances on components itemized below:

| Component | Financial Statements Figure (Kshs.) | Supporting/IFMIS Balance (Kshs.) | Variances (Kshs.) |
|---------------------------|--|---|--------------------------|
| Exchequer Receipts | 1,091,058,398 | 1,043,645,179 | 47,423,219 |
| Compensation of Employees | 406,525,663 | 43,616,355 | 362,909,308 |
| Use of Goods and Services | 555,995,473 | 400,513,812 | 155,481,661 |
| Social Security Benefits | 0 | 533,388 | (533,388) |
| Acquisition of Assets | 116,354,616 | 85,034,731 | 31,319,885 |
| Recurrent Bank A/C | 1,301,871 | 88,468,428 | (87,166,557) |
| Development Bank A/C | 2,247 | 46,858,771 | (46,856,524) |
| Deposit Bank A/C | 6,576,065 | 0 | 6,576,065 |
| Imprest Bank A/C | 450,127 | 0 | 450,127 |

In the circumstances, the completeness and accuracy of balances reflected in the financial statements for the year ended 30 June, 2021, could not be confirmed.

2.0 Receipts after the Cutoff Date

As disclosed in Note 1 to the financial statements, the statement of receipts and payments reflect transfers from County Treasury/Exchequer Releases balance of Kshs.1,091,058,398. However, included in this balance is an amount of Kshs.195,042,377 that was received after the cutoff date of 30 June, 2021. This is contrary to Regulation 97(4) of the Public Finance Management (County Governments) Regulations, 2015 which provides that actual cash transactions taking place after 30 June shall not be treated as pertaining to the previous financial year even though the accounts for that year may be open for end of year procedures and adjustments. Consequently, the accuracy, cutoff and completeness of County Exchequer Releases balance of Kshs.1,091,058,398 for the year ended 30 June, 2021 could not be confirmed.

3.0 Unsupported Domestic and Subsistence Allowances

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.555,995,473 in respect to use of goods and services for the

financial year ended 30 June, 2021. However, included in this balance is an amount of Kshs.104,743,014 incurred on domestic travel and subsistence which further includes an amount of Kshs.13,268,300 being transport allowance claims for MCAs and Staff members that were not supported by way of a policy document.

Under the circumstances, the validity, accuracy and completeness of transport allowance claims amounting Kshs.13,268,300 for the year ended 30 June, 2021 could not be ascertained.

4.0 Rent Payments Not Supported by Lease Agreements

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects use of goods and services balance of Kshs.555,995,473 for the year ended 30 June, 2021. Included in this balance is rentals of produced assets balance of Kshs.6,051,722 which further includes Kshs.1,012,500 being house rent for the speaker's house. Further, no valid tenancy agreement was provided to confirm validity of the rent payments.

Under the circumstances, the validity, accuracy and completeness of the rent payments of Kshs.1,012,500 for the year ended 30 June, 2021 could not be confirmed.

5.0 Unsupported Acquisition of Assets

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects acquisition of assets balance of Kshs.116,354,616 for the financial year ended 30 June, 2021. However, included in this balance is an amount of Kshs.11,941,212 that has not been supported by relevant procurement records.

Under the circumstances, the validity, accuracy and completeness of acquisition of assets costing Kshs.11,941,212 for the year ended 30 June, 2021 could not be confirmed.

6.0 Payments Made after Closure of the Financial Year

The statement of receipts and payments reflects total payments balance of Kshs.1,088,881,172 for the year ended 30 June, 2021. However, included in the balance is Kshs.209,000,866 comprising of recurrent expenditure of Kshs.43,858,526 and development expenditure of Kshs.165,142,340 made after the financial year cutoff date of 30 June, 2021 contrary to Section 97(4) of the Public Finance Management (County Governments) Regulations, 2015 which provides that actual cash transactions taking place after 30 June shall not be treated as pertaining to the previous financial year even though the accounts for that year may be open for end of year procedures and adjustments.

Consequently, the accuracy and completeness of the total payments balance of Kshs.1,088,881,172 for the year ended 30 June, 2021 could not be confirmed.

7.0 Bank Balances

As disclosed in Note 7 to the financial statements, the statement of financial assets and liabilities reflect bank balance of Kshs.8,330,311 as at 30 June, 2021. However,

supporting certificate of bank balances and the bank reconciliation statements provided for review reflects balances as at 31 July, 2021 a month after the reporting date therefore causing doubt on the validity of the reported bank balance.

Consequently, the accuracy and completeness of the bank balance of Kshs.8,330,311 as at 30 June, 2021 could not be ascertained.

8.0 Un-approved Payment of Legal Fees

As disclosed in Note 3 to the financial statement, the statement of receipts and payments reflects use of goods and services balance of Kshs.555,995,473 for the year ended 30 June, 2021. Included in this balance is an amount of Kshs.19,995,874 in respect of legal fees which further includes an amount of Kshs.3,392,800 incurred on legal costs without the approval of the Clerk to the County Assembly.

Under the circumstances, the validity and authenticity of the legal costs amounting to Kshs.3,392,800 for the year ended 30 June, 2021 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 Nakuru Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflect a total receipts final budget of Kshs.1,264,408,526 against actual receipts of Kshs.1,091,058,398 resulting to a shortfall of Kshs.173,350,128 (or 14%). The statement also reflects a final expenditure budget of Kshs.1,264,408,526 against actual expenditure of Kshs.1,088,881,172 resulting to under absorption of Kshs.175,527,354 (or 14%). No explanation has been provided for the fourteen percent (14%) shortfall in funding and a similar rate of under absorption which may have negatively impacted on the planned activities for the year, thus negatively affecting service delivery to the citizens.

2.0 Anomalies in Pending Accounts Payable

As disclosed in Note 1.4 – Other Disclosures and under Annex 1 to the financial statements is pending accounts payable balance of Kshs.141,900,004 for the year ended 30 June, 2021. However, the Annex reflects additions of Kshs.191,499,836 which differs with the vote book balance of Kshs.28,863,082 on a comparable basis resulting to unexplained or unreconciled variance of Kshs.126,611,515. Similarly, the Annex reflects an opening balance of Kshs.54,015,682 which differs from the prior year balance of Kshs.279,775,082 also resulting to unexplained variance of Kshs.225,759,400.

In the circumstances, the accuracy and completeness of the pending accounts payable balance of Kshs.141,900,004 for the year ended 30 June, 2021 could not be ascertained.

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.

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 Qualified Opinion, 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

1.0 Excess Transfer to the County Assembly

As disclosed in Note 1 to the financial statements, the statement of receipts and payments reflect transfers from the County Treasury/Exchequer releases balance of Kshs.1,091,058,398 for the year ended 30 June, 2021. This amount exceeds the set threshold of the lower of seven percent (7%) of County revenue or twice the personnel emoluments of that County Assembly whichever is lower. In the year under review, the disbursable amount should have been Kshs.916,932,472 instead of the disbursed amount of Kshs.1,091,058,398 resulting to over disbursements of Kshs.174,125,926 contrary to Regulation 25(1)(f) and (h) of the Public Finance Management (County Governments) Regulations, 2015.

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

2.0 Irregular Payments of Casual Wages

The statement of receipts and payments reflects compensation of employees' balance of Kshs.406,525,663 and as disclosed in Note 2 to the financial statements. Included in the balance is Kshs.37,836,416 paid in respect of temporary employees of which Kshs.2,429,180 was incurred on casual wages for the whole year instead of the required three month's period stipulated in sect. 37 (b) of the Employment Act 2007 and Section B.16 (1) of the Assembly's Human Resource Manual, 2018, which stipulates that casual workers shall be engaged only on urgent short-term tasks with the approval of the County Assembly Service Board and shall not be engaged for more than three months, as stipulated in the Employment Act, 2007. Further, the respective letters of employment showing their rate of pay, conditions of service, master roll or expected output were not provided for review.

Consequently, the Management was in breach of the law.

3.0 Irregular Expenditure on Subscriptions to Professional Bodies

The statement of receipts and payments reflects use of goods and services balance of Kshs.555,995,473 for the year ended 30 June, 2021. Included in this balance is an amount of Kshs.5,898,450 in respect of subscriptions to professional and trade bodies comprising of Kshs.750,000 to Society of Clerks -At-The Table in Kenya Legislatures (SOCATT) and Kshs.5,000,000 to County Assemblies Forum (CAF) as annual subscription fees. Although the expenditure was budgeted for, there is no existing law or policy in place authorizing the said payments of subscription fees. In addition, no verifiable document was provided for review.

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 matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance 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.

Basis for Conclusion

Lack of a Risk Management Policy

The County Assembly Management did not provide for review, a risk management policy. This is contrary to Regulation 158(1)(a) and (b) of the Public Finance Management Act (County Governments) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations.

In the absence of a risk management policy, it has not been possible to confirm whether the internal controls built within the financial and operational systems were functioning as intended during the year under review.

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 Assembly's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the County Government 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 County Assembly's 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 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 appropriate 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 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 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

27 May, 2022