

# **REPORT OF THE AUDITOR-GENERAL ON VIHIGA MUNICIPAL BOARD FOR THE YEAR ENDED 30 JUNE, 2021**

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## **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, gazetted 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 Vihiga Municipal Board set out on pages 19 to 45, which comprise of the statement of financial position as at 30 June, 2021, the statements of financial performance, statement of changes in net assets, statement of cash flows and the 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 the Vihiga Municipal Board 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 (Accrual Basis) and comply with Public Finance Management Act, 2012 and Urban Areas and Cities Act, 2016.

## **Basis for Qualified Opinion**

### **1. Anomalies in Presentation of Financial Statements**

Review of the annual report and financial statements for the Board revealed the following anomalies: -

- a) Key entity information and management under Municipal Board members includes Hon. Paul Mbuni and Lucy Ijai who are not gazetted members and excludes Mwanaidi M. Abdi and Andrew Ahuga Mwenesi who are gazetted members.
- b) The key management and fiduciary oversight arrangements are not provided.
- c) The independent auditor's information has omitted to state "Auditor-General" before the Office of the Auditor-General.
- d) The Board of Trustees composition does not show each member's date of birth, key academic and professional qualifications, and whether the member is independent or an executive member.
- e) The Management team does not include the Board accountant.
- f) The corporate governance statement does not mention the number of Board meetings held, the attendance to those meetings by members and the Board members remuneration.
- g) The statement of management's responsibilities does not state the name of the Municipal manager.
- h) The summary of significant accounting policies omits the statement of compliance and basis of preparation, and disclosure that the Board did not adopt new and revised standards.
- i) The notes to the financial statements do not show the related party transactions under related party balances.
- j) The Progress on follow up on Auditor recommendations include issues that were not raised in the previous year's audit report.
- k) Appendix 1 on Inter-entity transfers is omitted in the financial statements and therefore, the recurrent and development grants received from the county executive are not disclosed as required.

- l) The statements and reports stated in the financial statements are not placed sequentially as provided in the reporting template.

In the circumstances, the financial statements are not presented in accordance with the template issued by the Public Sector Accounting Standards Board (PSASB).

## 2. Incorrect Comparative Amounts

Review of the financial statements for the Board revealed that the comparative figures were different from the 2019/2020 audited financial statements and their supporting notes as indicated below;

Item	2020/2021 Financial Statements Balances Kshs)	2019/2020 Audited Financial Statements Balances (Kshs)	Variance (Kshs)
<b>Statement of Financial Position</b>			
Cash and Cash Equivalents	117,157,623	305,458,150	188,300,527
Property, Plant and Equipment	125,424,701	135,424,701	10,000,000
Total Assets	242,582,324	440,882,851	198,300,527
<b>Net Assets</b>	<b>242,582,324</b>	<b>440,882,851</b>	<b>198,300,527</b>
Fund Balance	93,850,192	292,150,719	198,300,527
<b>Total Assets and Liabilities</b>	<b>242,582,324</b>	<b>440,882,851</b>	<b>198,300,527</b>
<b>Statement of Changes in Net Assets</b>			
Total net assets opening balance	242,582,324	625,632,132	383,049,808
<b>Statement of Cash Flows</b>			
Purchase of property, plant equipment & intangible assets	61,884,324	71,884,324	10,000,000
Net increase in cash and cash equivalents	86,847,808	76,847,808	10,000,000
Cash and cash equivalents at the beginning of the year	30,309,815	228,610,324	198,300,509
Cash and cash equivalents at the end of the year	117,157,623	305,458,132	188,300,527
<b>Notes to the financial statements</b>			
Transfers from county government	259,750,700	188,289,676	71,461,024

In the circumstances, the financial statements do not give a fair presentation of the financial performance of the Board for the comparative year.

## 3. Inconsistencies in the Notes to the Financial Statements

Review of the financial statements revealed the following anomalies: -

- i. The statement of financial performance and as disclosed in Note 1 to the financial statements reflects transfers from county government comparative amount of Kshs.188,289,676 while supporting Note1 reflects a balance of Kshs.259,750,700 resulting to unreconciled variance of Kshs.71,461,024.
- ii. The statement of financial performance and as disclosed in Note 2 to the financial statements reflects general expenses. However, the current year column has omitted the narration for travel cost and consumables while the comparative figures have not been distributed as in the previous year audited financial statements.
- iii. The statement of financial position and as disclosed in Note 4 to the financial statements reflects property, plant and equipment assets balance as at 30 June, 2020 and 1 July, 2020 under infrastructure and civil works of Kshs.105,497,616.However, the audited financial statements reflect a balance of Kshs.115,497,616 resulting to an unreconciled variance of Kshs.10,000,000.

In the circumstances, the financial statements are not fairly stated.

#### **4. Lack of Trial Balance**

The trial balance for the Fund as at 30 June, 2021 was not provided for audit in support of the balances in the financial statements. This is contrary to paragraph 27 of the International Public Sector Accounting Standards (IPSAS) 1 which states that financial statements shall present fairly the financial position, financial performance, and cash flows of the Board.

In the circumstances, the basis for the preparation of the financial statement balances could not be confirmed.

#### **5. Erroneous Treatment of Transfers from the County Government**

The statement of financial performance and as disclosed in Note 1 to the financial statements reflects transfers from the County Government of Vihiga of Kshs.259,750,000 which was meant for road improvements and purchase of other assets. However, the whole amount was erroneously treated as revenue for operations instead of being treated as Board capital in the statement of changes in net assets. This was contrary to Paragraph 21 of International Public Sector Accounting Standards 17 which states that infrastructure assets meet the definition of property plant and equipment and should be accounted for in accordance with this standard.

In the circumstances, the surplus for the period is overstated and the financial statements are not fairly presented

#### **6. Unsupported Cash and Cash Equivalents**

The statement of financial position and as disclosed in Note 3 to the financial statements reflects cash and cash equivalents balance of Kshs.7,702,924 which is held in two (2) bank accounts. However, bank reconciliation statements for the month of June, 2021 for the bank accounts were not provided for audit. Further, the two bank accounts maintained

at Equity bank and Vihiga County KUSP UIG account at Central Bank of Kenya reflected balances in the certificate of bank balances instead of the reconciled cash book balances. In addition, Vihiga County KUSP UDG Account at CBK reflected Nil balance in the financial statements while the account had an actual bank balance of Kshs.179,489,676 as at 30 June, 2020.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.7,702,924 could not be confirmed.

## **7. Irregular Payment of Daily Subsistence Allowances**

The statement of financial performance and as disclosed in Note 2 to the financial statements reflects general expenses amount of Kshs.9,977,826 which, includes Kshs.6,096,215 for daily subsistence allowance. This amount further, includes Kshs.395,000 paid as allowances to members of staff who prepared the financial statements of the Board and Kshs.774,225 paid to staff who responded to audit queries raised by the internal and external auditors. However, it was not explained why the officers were paid while performing their normal duties for which they are paid salaries and allowances.

In the circumstances, the regularity of subsistence allowance amounting to Kshs.1,169,225 could not be confirmed.

## **8. Inconsistencies in the Financial Statements**

Review of the financial statements revealed the following anomalies:

- i. The statement of financial performance reflects total expenses of Kshs.9,977,826 while the statement of comparison of budget and actual amounts reflects an amount of Kshs.369,205,398 under actual on comparable basis column and thus, resulting to an unexplained and unreconciled variance of Kshs.359,227,572.
- ii. The statement of financial performance reflects transfers from county government of Kshs,259,750,700 while the statement of comparison of budget and actual amounts reflects an amount of Kshs.369,205,398 resulting to a variance of Kshs.109,454,698.
- iii. The statement of financial performance reflects surplus for the year of Kshs.249,772,874 while the statement of changes in net assets reflects a surplus Kshs.249,814,844 resulting to an unreconciled variance of Kshs.41,970.
- iv. During the year under review, the County Executive budgeted for the Municipal Board an amount of Kshs.19,054,651 for recurrent expenditure under the department of physical planning, lands, and housing. However, this information was not captured in the statement of comparison of budget and actual amounts of the Board as separate statements for recurrent and development were not prepared.

- v. The statement of comparison of budget and actual amounts reflects an original budget amount of Kshs.259,750,700 contrary to budget information in summary of significant accounting policies number 15.6 (2) which indicates that the Board had an original budget of Kshs.295,458,460 resulting to an unreconciled variance of Kshs.35,707,760.

In the circumstances, the accuracy, completeness and authenticity of the information in the statement of financial performance and comparison of budget and actual amounts could not be confirmed.

### **9. Failure to Maintain Fixed Asset Register and Lack of Assets Ownership Documents**

The statement of financial position and as disclosed in Note 4 to the financial statements reflects balance of Kshs.32,843,085. However, the assets were not recorded in a fixed asset register of the Board. In addition, review of the logbooks for Isuzu skipper loader Reg.no.38CG203A, exhauster Reg.no.38CG204A, and Skip loader Reg.no.38CG206A revealed that the machines were registered under County Government of Vihiga and not the Municipal Board. This is contrary to Section 12(2)(b) of Urban Areas and Cities Act, 2011 which states that the Board of an area granted the status of a city or municipality under this Act shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name be capable of taking, purchasing or otherwise, acquiring, holding, charging, or disposing of movable and immovable property.

In the circumstances, the ownership of the Board's assets worth Kshs.32,843,085 could not be confirmed.

### **10. Non-Operational High Mast Lights**

The Board awarded a contract to a contractor for proposed access roads, footpaths and side drains at Mbale Urban Centre and proposed supply, installation, testing and commissioning of five (5) 30m high mast lighting vide tender No. VCG/KUSP/PPL&H/180/2019-2020 for Kshs.211,115,858. The contract was to take eighteen (18) weeks starting from 2 June, 2020 to 1 December, 2021. Review of records revealed that the contractor was paid Kshs.20,037,750 vide Interim Payment Certificate No. 4 and payment voucher No. 17 for the supply, installation, testing and commissioning of five (5) 30m high mast lighting. However, during physical inspection in November, 2021, the masts had not been labelled and were not in working condition and as such they did not serve the intended purpose of providing street lighting.

In the circumstances, the propriety of the expenditure and value for money in respect of Kshs.20,037,750 paid towards the installation of flood lights could not be confirmed.

### **11. Failure to Account for Retention Monies**

The statement of financial position and as disclosed in Note 4 to the financial statements reflects assets addition of Kshs.359,227,572 which includes infrastructure and works

amount of Kshs.346,311,572. However, although the payment vouchers reflected recovery of 10% retention, Management has not disclosed the same in the financial statements.

In the circumstances, the accuracy of retention balance of Kshs.34,631,157 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Vihiga Municipal Board 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**

#### **Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.376,908,323 and Kshs.369,205,398 respectively, resulting to underfunding of Kshs.7,702,925 or 2% of the budget. In addition the statement of financial performance reflects actual receipts of Kshs.259,750,700 resulting to a variance of Kshs.109,454,698 which has not been explained or reconciled. Similarly, the statement of financial performance reflects an actual expenditure of Kshs.9,977,828. In addition, the Management did not provide the approved budget for audit review contrary to Regulation 42(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which states that an Accounting Officer shall ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which they were intended and appropriated by the County Assembly.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

## **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. Late Submission of Financial Statements**

During the year under review, Management submitted the financial statements to the Auditor-General on 1 November, 2021, one (1) month after the statutory deadline of 30 September, 2021 contrary to Section 47(1) of the Public Audit Act, 2015 which requires that financial statements should be submitted to the Auditor-General within three (3) months after the end of the fiscal year to which the accounts relate.

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

### **2. Incomplete Disclosure for Property, Plant and Equipment**

The significant accounting policies on property, plant and equipment as disclosed in Note 1 reflects that the Board's assets are stated at cost less accumulated depreciation and impairment losses. However, the note does not provide the depreciation rates for the various categories of assets and the depreciation method adopted.

In the circumstances, property plant and equipment has not been disclosed in accordance to the template issued by the Public Sector Accounting Standards Board (IPSASB).

### **3. Lack of Designated Accounting Officer**

The Municipal Manager was appointed on 4 May, 2020 for a contract period of three (3) years. However, at the time of audit in November ,2021, the CECM Finance was yet to appoint the Municipal Manager as the Accounting Officer of the Board. This is contrary to Section 29 of Vihiga Municipality Charter which states that the Municipal Manager shall be appointed as the accounting officer of the Board.

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

### **4. Un-transferred Functions of the Municipal Board**

The statement of Board's performance against predetermined objectives for the year under review reports that the County Executive has not transferred the functions of the Board. Further, Management discussion and analysis report states that the Board has not been charged with the responsibility of handling the projects that are financed by the Kenya Urban Support Programme (KUSP). This is contrary to Section 8(1) of the Vihiga Municipality Municipal Charter which states that the Board shall have all the powers and perform all functions vested in the Boards of municipalities under the Urban Areas and Cities Act, County Government Act, and the Municipality by-laws.

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



## **5. Inconsistencies in the Statement of Cash Flows**

The statement of cash flows reveals two (2) sets of cash flows from operating activities at the beginning of the statement and another one after cash flows from investing activities contrary to the Public Sector Accounting Standards Board (PSASB) reporting format.

In the circumstances, 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 has else come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

#### **Basis for Conclusion**

##### **1. Un-signed Minutes of the Board**

Review of the Board meeting minutes revealed that the minutes for the year under review were not signed by the chairman, but only by the secretary to the Board contrary to Section 21(5) of the Municipal Charter which states that the adoption of a by-law, the chairperson of the Board must endorse it with the date of adoption and his title.

In the circumstances, the legality of the reports and the deliberations of the Board operations could not be confirmed.

##### **2. Lack of Annual Procurement Plan**

The approved annual procurement plan for the Municipal Board was not provided for audit contrary to Section 114(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that every year a procurement plan shall be prepared by Accounting Officers to form the basis for procurement activities undertaken by Government entities in the fiscal year. The procurements during the year may not have been informed by an approved procurement plan.

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

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 Board of Directors**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for maintaining effective internal controls 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 controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Board'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 the intention to terminate the Board 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 money is applied in an effective manner.

Management is responsible for overseeing the Board's financial reporting process, reviewing the effectiveness of how the Management 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 review is planned and performed to express a conclusion with limited assurance as to 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 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review 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 controls would not necessarily disclose all matters in the internal controls 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 controls 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 Board'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 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 Board'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 Board 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 Board 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 controls 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**

**19 September, 2022**