

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF KAKAMEGA FOR THE YEAR ENDED 30 JUNE, 2022

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 Kakamega set out on pages 1 to 34, which comprise of the statement of financial assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, 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 the County Assembly of Kakamega as at 30 June, 2022, 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 Qualified Opinion

1. Inaccuracies in Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and bank balance of Kshs.4,641,273 out of which the adjusted cash book balance of Co-operative Bank reflects an amount of Kshs.925,421 as at 30 June 2022. However, excluded in this balance is Kshs.8,181,048 and Kshs.4,169,723 being payments in bank statements not recorded in cash book and receipts in cash book not reflected in bank statements respectively.

In the circumstances, the accuracy and completeness of the cash and cash equivalent balance of Kshs.4,641,273 could not be confirmed.

2. Inaccuracies in Compensation of Employees

The statement of receipts and payments reflects an amount of Kshs.658,038,380 in respect of compensation of employees as disclosed in Note 2 to the financial statements. However, payment schedules, the IPPD, manual payroll and journal vouchers provided for audit review reflect a balance of Kshs.564,270,005. The variance of Kshs.93,768,375 was not explained or reconciled.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.658,038,380 could not be confirmed.

3. Un-supported Pending Bills

Note 1 under Other Disclosures to the financial statements reflects a balance of Kshs.53,028,597 in respect of pending accounts payable, as disclosed in Annex 1 to the financial statements. However, the amount includes an amount of Kshs.14,582,045 relating to air travel, conference facilities, supply of tonners and Hansard equipment which were not supported by boarding passes, stores ledgers, invoices, quotations and inspection and acceptance reports.

In the circumstances, the accuracy of the pending accounts payables balance of Kshs.14,582,045 could not be confirmed.

4. Un-supported Expenditure

4.1 Other Operating Expenses

The statement of receipts and payments reflects an amount of Kshs.592,824,457 in respect of use of goods and services which, as disclosed in Note 3 to the financial statements, includes Kshs.22,543,100 relating to other operating expenses. However, the amount of Kshs.22,543,100 includes Kshs.6,280,000 relating to contracted professional services paid to various service providers which were not supported by invoices and fee notes.

In the circumstances, the accuracy of the operating expenses amount of Kshs.6,280,000 could not be confirmed.

4.2 Foreign Travel Expenses

The approved budget of the County Assembly for the year under review indicates that the County Assembly had an approved expenditure budget of Kshs.5,720,300 in respect of foreign travel for the year. However, the County Assembly incurred actual expenditure of Kshs.8,034,638 on the item as disclosed in Note 3 to the financial statements. No evidence was provided to support the over-expenditure of Kshs.2,314,338.

Further, the actual expenditure of Kshs.8,034,638 includes expenditure totalling Kshs.5,721,842 which was not supported by imprest warrants, training certificates and reports arising from the foreign trips.

In the circumstances, the accuracy of the foreign travel expenses amount of Kshs.5,721,842 could not be confirmed.

4.3 Catering and Conference Facilities

The statement of receipts and payments reflects an amount of Kshs.592,824,457 in respect of use of goods and services which, as disclosed in Note 3 to the financial statements, includes Kshs.25,785,637 relating to hospitality supplies and services. However, the amount of Kshs.25,785,637 includes expenditure totalling Kshs.12,676,340 comprising of Kshs.3,113,290 incurred on hire of catering and conference facilities and Kshs.9,563,050 incurred on purchase of bottled water.

However, the two expenditures were not supported by user requisitions, invitation letters, attendance registers, workshop programmes, notices of meetings, committee minutes, reports from conferences and procurement documents and stores records for the bottled water.

In the circumstances, the accuracy of the catering and conference facilities amount of Kshs.12,676,340 could not be confirmed.

4.4 Domestic Travelling, Accommodation and Subsistence Allowance

The statement of receipts and payments reflects an amount of Kshs.592,824,457 in respect of use of goods and services which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.278,843,617 relating to domestic travel and

subsistence allowances. However, the amount of Kshs.278,843,617 includes expenditure totalling Kshs.27,636,350 for which imprest warrants, imprest requisitions, accountability receipts, training programmes, and attendance registers were not provided for audit review.

In the circumstances, the accuracy of the domestic travelling and subsistence allowances amount of Kshs.27,636,350 could not be confirmed.

4.5 Office and General Expenses

The statement of receipts and payments reflects an amount of Kshs.592,824,457 in respect of use of goods and services which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.149,174,180 relating to office and general supplies and services. However, the amount of Kshs.149,174,180 includes expenditure totalling Kshs.22,753,408 whose payment vouchers were not supported by local purchase orders, delivery notes and user requisitions.

In the circumstances, the accuracy of the office and general expenses amount of Kshs.22,753,408 could not be confirmed.

5. Inaccuracies in the Statement of Comparison of Budget and Actual Amounts

The statement of receipts and payments reflects an amount of Kshs.19,320,000 in respect of other payments which, as disclosed in Note 8 to the financial statements, relates to refund to the County Executive. However, the statement of comparison of budget and actual amounts reflects a nil balance on the item.

Further, the statement of comparison of budget and actual amounts reflects total payments of Kshs.1,277,606,766. However, a recasting of the payments indicates a recomputed figure of Kshs.1,258,286,767 hence an unreconciled variance of Kshs.19,319,999.

In the circumstances, the accuracy and completeness of the statement of comparison of budget and actual amounts could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Kakamega 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 judgement, 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 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. Staff Ethnic Diversity

Review of Human Resource records including the payroll, indicated that the County Assembly had ninety (90) employees. Out of this number, eighty-seven (87) employees, or about 96%, were from the dominant ethnic community, contrary to Section 65(1)(e) of the County Governments Act, 2012 which provides that in selecting candidates for appointment, at least thirty (30) percent of the vacant posts at entry levels are filled by candidates who are not from the dominant ethnic community in the County.

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

2. Irregular Procurement of Hospitality Services

The statement of receipts and payments reflects an amount of Kshs.592,824,457 in respect of use of goods and services which, as disclosed under Note 3 to the financial statements, includes an amount of Kshs.25,785,637 relating to hospitality supplies and services. The amount includes payments totalling Kshs.4,145,179 made to eight (8) companies for offering hospitality services. However, the eight (8) companies were not in the list of registered suppliers. This is contrary to Section 57(1) of the Public Procurement and Asset Disposal Act, 2015 which requires heads of procuring entities to maintain and update lists of registered suppliers, contractors and consultants in categories of goods, works or services according to their procurement needs.

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

3. Failure to Remit National Hospital Insurance Fund (NHIF) Contributions

Review of the payroll revealed that a total amount of Kshs.5,428,850 was deducted from employees in respect of NHIF contributions. However, only Kshs.3,614,887 was remitted to the Fund, leaving an unremitted balance of Kshs.1,813,963. This is contrary to Section 18(2) of the National Hospital Insurance Fund Act, 1988 which requires employers to remit NHIF deductions to the Fund.

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

4. Failure to Adhere to the One-Third Basic Salary Rule

Review of the payroll revealed that some employees' salary deductions exceeded two-thirds of their basic salary, contrary to Section C.1(3) of the Public Service Commission Human Resource Policies, 2016, and Section 19(3) of the Employment Act, 2007, which require that deductions made by an employer from the wages of employees at any one time shall not exceed two thirds of such wages.

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

5. Irregular Award of Medical Insurance Cover for Members of County Assembly and Staff

Review of records revealed that the County Assembly advertised a tender for procurement of a medical insurance cover for Members of County Assembly and staff on 11 August, 2021. A total of seven (7) bids were received and, after evaluation, only four bidders who scored over 150 marks proceeded to the next stage of invitation to power point presentation. However, the tender was awarded to the second lowest bidder at Kshs.42,292,196 instead of the lowest bidder who quoted Kshs.41,711,756 resulting to excess payment of Kshs.580,440.

In the circumstances, value for money on the excess payment of Kshs.580,440. could not be confirmed.

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

Basis for Conclusion

Information Technology (IT)

Review of the systems revealed that the County Assembly was not using any accounting system to monitor expenditure and link e-procurement system to IFMIS internet banking in order to enhance efficiency and accountability in managing operations.

In addition, the County Assembly did not also have an IT Steering Committee as well as environmental controls such as a fire suppression system, fire extinguishers and air conditioning systems.

In the circumstances, the effectiveness of the systems used in the various departments could not be confirmed.

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 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 County Assembly's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to dissolve the County Assembly or to cease its 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 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 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 controls 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 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 scepticism 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 controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material

uncertainty exists related to events or conditions that may cast significant doubt on the County Assembly's ability to 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 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 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

23 February, 2023