REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF NAROK 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 Narok set out on pages 1 to 42, 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 County Assembly of Narok 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 County Governments Act, 2012 and Public Finance Management Act,2012.

Basis for Qualified Opinion

1. Variances between the Financial Statements and Integrated Financial Management Information System (IFMIS)

Comparison of amounts reflected in the financial statements with IFMIS ledger revealed unreconciled variances as indicated below;

Item	Financial	IFMIS Balances (Kshs)	Variance (Kshs)
Compensation of Employees	495,381,980	512,387,740	(17,005,760)
Use of goods and Services	316,196,638	337,187,423	(20,990,785)
Other Grants and Transfers	-	2,907,000	(2,907,000)
Acquisition of Assets	1,362,000	34,374,950	(33,012,950)
Imprests and Advances	-	3,826,050	(3,826,050)
Pending Accounts Payable	52,337,676	21,323,750	31,013,926

Further, the statement of receipts and payments reflects Exchequer receipts of Kshs.812,941,728 being receipts from the County Executive. However, the financial statements of the County Executive for the year ended 30 June, 2022 reflects an amount of Kshs.849,941,728 as transfers to the County Assembly resulting to an unexplained and unreconciled variance of Kshs.37,000,000.

In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2022 could not be confirmed.

2. Summary of Non-Current Asset Register

Annex 4 to the financial statements reflects the summary of non-current asset register amount of Kshs.144,548,068. The amount includes buildings and structures balance of Kshs.96,880,074. However, the value of land on which the buildings and structures stand has not been disclosed. This is contrary to Regulation 136(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires Counties to record each parcel of land and each building and the terms on which it they are held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms and maintenance contracts. Further, the title of the land was not provided for audit.

In the circumstances, the completeness and accuracy of the summary of non-current asset register balance of Kshs.144,548,068 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 Narok 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 are no other key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development reflects final budgeted receipts and actual amount on a comparable basis of Kshs.886,696,090 and Kshs.812,941,728 respectively, resulting in an underfunding of Kshs.73,754,362 or 8% of the budget. Similarly, the statement also reflects total expenditure budget of Kshs.886,696,090 against an actual expenditure of Kshs.812,940,618 resulting in overall under-expenditure of Kshs.73,755,472 or 8% of the approved budget.

The underfunding and under-expenditure impact negatively on the delivery of services to the residents of Narok County.

2. Unresolved Prior Year Matters

In the previous year audit report, several issues were raised. However, the Management has not resolved the issues or provided satisfactory explanations for failure adhere to provisions of the Public Sector Accounting Standards Board templates and the National Treasury and Planning Circular of 30 June, 2022.

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. Unsupported Outstanding Legal Fees

Annex 1 to the financial statements reflects analysis of pending accounts payable balance of Kshs.52,337,676 which includes suppliers of services amount of Kshs.27,258,633 which further includes Kshs.3,101,724 payable to a law firm for legal services. However, the fee notes for the legal services did not indicate the nature of services offered. Further, procurement records and signed contract for the provision of the legal services were not provided for audit. It was therefore not possible to confirm whether the legal fees commitment was as per the rates prescribed by the Law Society of Kenya in the absence of details of legal services offered.

In the circumstances, the authenticity of legal fees of Kshs.3,101,724 could not be confirmed.

2. Pending Accounts Payables

Annex 1 to the financial statements reflects analysis of pending accounts payable of Kshs.52,337,676 which includes Kshs.45,311,158 relating to 2019/2020 and earlier years. However, Management has not provided any explanation for failure to settle the bills as first charge in compliance with Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which prioritize debt payments as a first charge. Further, the documentary evidence in support of pending accounts payables were not provided for audit.

In addition, contributions to Local Authorities Pensions Trust (LAPTRUST) of Kshs.24,272,287 have not been remitted and hence attracting a monthly interest of 3% amounting to Kshs.70,678,826 as at 30 June, 2022. The amount has not been disclosed as pending staff payables.

In the circumstances, the value for money may not have been attained and the accuracy and completeness of pending accounts payables balance of Kshs.52,337,676 could not be confirmed.

3. Failure of County Assembly to Deliberate Audit Reports and Implement Senate Recommendations

The County Assembly has not submitted a report on how it has addressed the Senate recommendations and findings of audit reports for the years 2013/2014 to 2019/2020. This is contrary to Section 31(1)(a) of the Public Audit Act, 2015 states within three months after Parliament has debated and considered the final report of the Auditor-General and made recommendations, a State Organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit. Further, the Assembly has not deliberated on the Auditor-General's reports for the years 2013/2014 to 2019/2020.
In the circumstances, the County Assembly is in breach of the law.

4. Irregular Renewal of Medical Insurance Cover

The Assembly renewed the contract for the provision of hospitalization and outpatient medical expenses for staff and County Assembly Members with insurance firm at a contract price of Kshs.22,988,915. However, the new contract price increased by Kshs.6,145,128 or 36% of the expired contract sum of Kshs.16,843,787. This is contrary to Section 139(6) of the Public Procurement and Disposal Act, 2015, which provides that where variations result in an increment of the contract price by more than twenty-five percent, such variations shall be tendered for separately. Further, no e-procurement documentations for the provision of hospitalization and outpatient medical expenses were provided for audit verification.

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

5. Failure to Construct or Acquire Residence for County Speaker

During the year under review, the County Assembly paid a total of Kshs.1,100,000 as rent for the Speaker's residence as the Assembly has not constructed or procured a residence for the Speaker. This is contrary to the Salaries and Remuneration Commission Circular referenced SRC/TS/COG/6/61/48VOL.II(64) of 20 May, 2019 which directed that the deadline for County Governments paying rent to County Assembly Speakers be 30 June, 2022. No explanation was provided for the failure to acquire a residence for the Speaker.

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

6. Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees was one hundred twenty-four (124) out of which ninety-six (96) or 77% of the total number were members of the same/dominant ethnic community in the County. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, "all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community".

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

7. Failure to Develop Guidelines for Public Participation

Review of the County Government Budget planning process revealed that the Assembly did not have guidelines to effective public participation contrary to Section 115(2) of the County Government Act, 2012 which requires that the County Assembly develop guidelines for public participation. Further, the Assembly held five (5) public participation meetings in five (5) Wards out of the thirty (30) Wards, which was not a fair representative of the citizens.

Further, the criteria of identifying the five (5) Wards was not provided for audit.

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

8. Non-Compliance with the One Third of Basic Salary Rule

During the year ended 30 June, 2022, thirty-five (35) employees earned a net salary of less than a third (1/3) of the basic salary. This is contrary to Section D22(2) of the County Public Service Human Resource Manual and Section 19(3) of the Employment Act, 2007 which requires that the total amount of deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay. The Management has not given explanation for failure to comply with the law.

In the circumstances, the Management was in breach of the law and may expose the staff to pecuniary embarrassment.

9. Over Employment in County Assembly

Review of the records and payrolls revealed a total of one hundred and twenty-four (124) employees were in service during the year under review. This was contrary to approved staff establishment of one hundred (100) employees as per the Commission of Revenue Allocation Circular Ref No. CRA/FA/01 VOL.11(22) dated 28 June, 2018. No explanation has been provided for the over-employment of 24 employees. Further, the Assembly has not filled all the vacant positions in the approved establishment despite of the overemployment. In addition, the County Assembly Service Board has not prepared Human Resource Plans and Annual Recruitment Plans. This is contrary to Policies No.10 and No.11 of the County Assembly Human Resource Policies and Procedures Manual, 2018.

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

10. Non -Compliance with Deduction and Remittance of Statutory Dues

Review of documents provided for audit revealed that the Assembly deducted pension totalling Kshs.11,104,350 for Local Authorities Pensions Trust. However, no documentary evidence was provided to support of remittance of the deductions. Further, previous years' pension deductions of Kshs.24,272,287 had not been remitted and has attracted interest of Kshs.70,678,826.

In addition, the Assembly deducted PAYE totalling to Kshs.89,863,314 from the salary of employees. However, only Kshs.30,153,047 was remitted to the Kenya Revenue Authority resulting to unremitted PAYE of Kshs.59,710,267. This is contrary to Section 130(10) of the Income Tax Act, 2021 which stipulates that, before the tenth day following the end of every month or before any other day which may be notified to him by the Commissioner, an employer shall pay to such person as the Commissioner shall direct, tax deducted during that month. Failure to remit pension deduction and PAYE will attract costly interest and is in breach of the law.

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

11. Non-Compliance in County Assembly Service Board

The County Assembly Service Board did not establish a County Assembly Fund. This is contrary to Section 34(1) of the County Assembly Service Act, 2017 which provides for the establishment of a County Assembly Fund.

Further, County Assembly Service Board did not prepare and lay before the Assembly, annual report of its operations within three months after the end of the year. This is contrary to Section 36(1) of the County Assembly Service Act, 2017 which stipulates that the County Assembly Service Board shall prepare and lay before the County Assembly, annual report of its operations within three months after the end of each calendar year.

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 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

Lack of a Risk Management Policy

During the year under review, the County Assembly did not have a Risk Management Policy in place and therefore, had no approved processes and guidelines on how to mitigate operational, legal and financial risks.

In the absence of an approved Risk Management Policy, it is not clear how the County Assembly identifies and mitigates emerging risks in its day to day operations.

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'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 Management is aware of the intention to dissolve the Assembly 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 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 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 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'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

17 April, 2023