REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF TAITA-TAVETA 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 Taita-Taveta set out on pages 1 to 38, which comprise the statement of financial assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and statements of comparison of budget and actual amounts - recurrent, development and 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 the County Assembly of Taita-Taveta 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 No.17 of 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Variances Between Transfers from County Executive and County Assembly

The statement of receipts and payments reflects receipts from Exchequer of Kshs.739,183,677, however, the financial statements for the County Executive of Taita Taveta reflects transfer to the County Assembly of Kshs.4,000,000, as disclosed in Note 7 to the financial statements resulting in an explained and unreconciled variance of Kshs.735,183,67.

In the circumstances, the accuracy and completeness of the transfers to County Assembly of Kshs.739,183,677could not be confirmed.

2. Irregular Payment of Transport Allowance

The statement of receipts and payments reflects expenditure on compensation of employees totalling Kshs.295,365,400, out of which an amount of Kshs.79,871,928 was incurred in respect of personal allowances paid as part of salary as disclosed under Note 4 to the financial statements. Included in the personal allowances is an amount of Kshs.28,343,778 in respect of transport allowances paid to Members of County Assembly. However, the distances between each Member of County Assembly's ward office and County Assembly Offices to support the payments were not provided for audit verification, contrary to Gazette Notice No. Vol CXIX No.89 of 07 July, 2017.

Further, included in the transport allowances of Kshs.28,343,778 is an amount of Kshs.4,743,360 paid to ten (10) Members of County Assembly (MCA) at the rate of Kshs.39,528 per MCA per month, instead of Kshs.22,133 per MCA per month as provided in the above Gazette Notice, resulting to irregular payment of transport allowance of Kshs.2,087,400.

In the circumstances, the propriety and validity of the expenditure on transport allowances totalling Kshs.28,343,778 could not be confirmed.

3. Unsupported Rental of Produced Assets

Disclosed in Note 5 to the financial statements under use of goods and services is an expenditure on rental of produced assets of Kshs.3,389,200. Included in the expenditure is an amount of Kshs.756,000 in respect of six (6) ward offices whose lease agreements were not provided for audit verification. Further, included in the expenditure of Kshs.3,389,200 is rent of Kshs.324,000 for two ward offices, against the contract sum of Kshs.144,000 provided for in the lease agreements, resulting to overpayment by Kshs.180,000.

In the circumstances, the validity and propriety of the expenditure on rental of produced assets amounting to Kshs.936,000 could not be confirmed.

4. Inaccurate Pending Bills Payments

The statement of receipts and payments reflects other payments and as also disclosed in Note 12 of Kshs.35,052,374. However, other disclosures in Note 1 and 2 reflects pending accounts payables paid of Kshs.37,837,614 and pending staff payables of Kshs.3,644,700 respectively, all totalling to Kshs.41,482,314 paid in 2021/2022 financial year, resulting to a variance of Kshs.6,429,940 which was not explained or reconciled.

Further, IFMIS pending bills report showed payments of Kshs.40,969,076, resulting to a variance of Kshs.5,916,702 which was not explained or reconciled.

In the circumstances, the validity, accuracy and completeness of the expenditure on other payments including pending bills paid in 2021/2022 financial year could not be confirmed.

5. Un Supported Acquisition of Assets

The statement of receipts and payments reflects expenditure on acquisition of assets totalling Kshs.69,643,279. Included in the amount and as disclosed in Note 10 to the financial statements is an expenditure on other domestic accounts receivables of Kshs.46,194,226 which was supported by a list of other domestic accounts payables for operating expenses not related to acquisition of assets.

In the circumstances, the accuracy and validity the expenditure on other domestic accounts of Kshs.46,194,226 for the year ended 30 June, 2022 could not be confirmed.

6. Unsupported and Inaccurate Fixed Assets Balance

Annex 4 - Summary of Fixed Assets Register reflects historical costs balance of Kshs.183,799,278 while the Fixed Assets Register indicates a balance of Kshs.181,140,742 as at 30 June, 2022 resulting to unreconciled an unexplained variance of Kshs.2,658,536.

In addition, the ownership documents for the land valued at Kshs.2,000,000 on which the County Assembly Headquarters sits were not provided for audit verification.

In the circumstances, the ownership of the land and the accuracy and completeness of the fixed assets balance of Kshs.183,799,278 as at 30 June, 2022 could not be confirmed.

7. Unsupported Prior Year Adjustment

The statement of financial assets and liabilities reflects a prior year adjustment of Kshs.11,915,631, comprising bank credit adjustment of Kshs.14,355,012 and accounts receivable debit adjustment of Kshs.2,439,381 as disclosed under Note 17 to the financial statements. However, details of the adjustments have neither been disclosed in these financial statements nor journal entries provided in support of the same.

In the circumstances, the validity of prior year adjustment of Kshs.11,915,631 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 Taita-Taveta Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The statement of comparison budget and actual amounts - recurrent and development combined reflects final revenue budget of Kshs.796,508,537 against actual revenue of Kshs.739,183,677, resulting in a shortfall of Kshs.57,324,860 or 7% of the budget. The statement also reflects a final expenditure budget of Kshs.796,508,537 against actual expenditure of Kshs.775,311,037, resulting in under-expenditure of Kshs.21,197,500 or 3%.

The shortfall in revenue and under-expenditure is an indication that the Management did not undertake some activities planned for the year under review.

2. Unresolved Prior Year Issues

The report for the previous year highlighted unsatisfactory matters in relation to several balances reflected in the financial statements, and on lawfulness and effectiveness in use of public resources. Although the Management has indicated that the issues were resolved, the recommendations by the Senate Committee had not been implemented. In the circumstance, the issues remain unresolved.

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 Ex-gratia Payments and Charge on Insurance Costs

The statement of receipts and payments reflects expenditure totalling Kshs.331,657,787 in respect of use of goods and services. Included in the amount is an expenditure of Kshs.39,319,194 in respect of insurance costs as disclosed under Note 5 to the financial statements, out of which Kshs.7,490,000 relates to ex-gratia payments for Members of County Assembly. However, evidence of prior approval by the County Treasury or evidence of powers conferred to the Accounting Officer to pay was not provided for audit verification, contrary to Regulation 124 of the Public Finance Management (County Governments) Regulations, 2015 which states that, 'no offer of compensation in settlement of any claim against the County Government or ex-gratia payment may be made without prior authority of the County Treasury, except where powers are available to Accounting Officer to settle such claims'.

Further, the Management did not justify the charging of all the ex-gratia under insurance vote yet the item had unutilized budget of Kshs.2,418,976.

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

2. Unsupported Payments for Construction of Office Block

The statement of receipts and payments reflects expenditure on acquisition of assets totalling Kshs.69,643,279, out of which amounts of Kshs.6,814,048 and Kshs.10,106,700 all totaling Kshs.16,920,748 relates to purchase and construction of buildings, respectively as disclosed under Note 10 to the financial statements. However, the supporting payment vouchers indicated that the total expenditure of Kshs.16,920,748 was incurred on construction of an office block costing Kshs.100,694,869. The records further showed that the project's initial cost was Kshs.75,634,848 with the additional cost of Kshs.25,060,048 attributed to additional works for an extra floor. However, the payment vouchers were not supported by details of measured works.

Further, at the time of physical inspection in the month of November, 2022, the office block was in use. However, the Bills of Quantities for both contracts were not provided for audit verification. In addition, available minutes indicated that the project had

delayed due to non-payment and the effects of Covid-19 pandemic. However, the request for extension due to the two factors were not provided for audit verification.
In the circumstances, value for money spent on acquisition of assets of Kshs.16,920,748 could not be confirmed.

3. Non-Reservation of Supply of Goods, Works and Services for the Preferences and Disadvantaged Groups

The Management did not provide for a minimum of twenty percent (20%) budgetary allocation for preferences and reservations for resident tenderers of the county, contrary to Regulation (5) of the Public Procurement and Asset Disposal Regulations, 2020.

In addition, no documentary evidence was provided to confirm that the Management allocated at least thirty percent (30%) of the County Assembly's annual procurement budget for the purposes of procuring goods, works and services from enterprises owned by youth, women and persons living with disabilities. This is contrary to Regulation 149 of the Public Procurement and Asset Disposal Regulations, 2020.

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

4. Lack of Ethnic Diversity

Examination of staff records revealed that eighty-one percent (81%) of all members of staff under permanent and contract terms in the County Assembly were from one community. This is contrary to Section 65(1)(e) of the County Governments Act, 2012 which caps the number of staff from the dominant community to a maximum of 70%.

In the circumstances, the County Assembly Service Board is in breach of the law.

5. Idle Asset - ICT Equipment

Annex 4 - summary of fixed assets as at 30 June, 2022 reflects an amount of Kshs.11,358,002 in respect of ICT equipment cost, out of which Kshs.1,392,000 relates to the cost of integrated biometric system acquired in 2017. However, the system was not functional and had not generated any reports as at 30 June, 2022.

In the circumstances value for money has not been realized on the ICT equipment costing Kshs.1,392,000.

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 ICT Risk Framework and ICT Strategic Plan

The Management did not provide for audit review an ICT Risk Framework to confirm that the Assembly had developed a risk strategy, set acceptable risk standards and undertaken risk assessment for identification, recording, analysis and designing mitigation measures. This was therefore in contravention of Section 9.2 of the IT Governance Standard, ICTA.5.002: 2019 on ICT Risk Framework.

Further, the Management did not also provide an approved ICT Strategic Plan to confirm clarity of IT vision and mission that define how it plans to improve services to stakeholders. The County Assembly was therefore in contravention of Section 6.4 (b) of the IT Governance Standard, ICTA.5.002: 2019 on ICT Risk Framework.

In the circumstances, the policy, strategies and procedures put in place to assess, identify, measure, prioritize and mitigate ICT risks 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 processes and systems of internal controls, 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 governance.

In preparing the financial statements, Management is responsible for assessing the County Assembly's ability 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 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 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 controls 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 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 controls 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 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 continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the County Assembly to cease to continue or 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 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

05 April, 2023