

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF MAKUENI 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 control, 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 Executive of Makueni set out on pages 1 to 35, which comprise of the statement of assets and liabilities as at 30 June, 2022 and the statement of receipts and payments, statement of cash flows and summary statement of appropriation - recurrent and development combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material

respects, the financial position of County Executive of Makueni 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 the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Variances Between Financial Statement Balances and IFMIS Payment Details

The statement of receipts and payments reflects total expenditure of Kshs.8,607,340,674. However, review of the financial statements presented for audit by the County Executive against the IFMIS payment details showed discrepancies in compensation of employees, use of goods, other grants and payments and acquisition of assets as detailed below:

Payment Type	Financial Statements (Kshs.)	IFMIS Payment Details Total (Kshs.)	Variance (Kshs.)
Compensation of Employees	3,405,879,803	3,376,928,294	28,951,509
Use of Goods and Services	2,810,706,142	2,243,302,163	560,746,424
Other Grants and Transfers	148,284,036	150,981,256	2,697,220
Acquisition of Assets	1,496,536,507	1,532,817,733	36,281,226

In the circumstances, the accuracy and completeness of the total expenditure of Kshs.8,607,340,674 reflected in the financial statements for the year ended 30 June, 2022 could not be confirmed.

2. Unsupported County Own Generated Receipts

The financial statements and as disclosed under Note 2 to the financial statements reflects county own generated revenue of Kshs.369,187,633. However, supporting ledgers were not provided for audit as required.

In the circumstances, the accuracy and completeness of the total own generated receipts of Kshs.369,187,633 reflected in the financial statements for the year ended 30 June, 2022 could not be confirmed.

3. Receipts and Payments Outside the Reporting Period

The statement of receipts and payments reflects amounts of Kshs.8,777,873,656 and Kshs.8,607,340,674 in respect to receipts and payments for the year ended 30 June, 2022 respectively resulting to a net surplus of Kshs.170,532,982. However, review of the cashbooks presented for audit revealed that, receipts and payments of Kshs.1,034,625,9002 and Kshs.1,226,696,551 respectively related to July, 2022 and therefore outside the reporting period contrary to Section 97(1) of the Public Finance Management (County Government) Regulations 2015.

In the circumstances, the accuracy and completeness of the total expenditure of Kshs.8,607,340,674 and total receipts of Kshs.8,777,873,656 reflected in the financial statements for the year ended 30 June, 2022 could not be confirmed.

4. Unconfirmed Validity and Regularity of Legal Fees/Dues

The statement of receipts and payments reflects use of goods and services amount of Kshs.2,810,706,142 as disclosed in Note 5 to the financial statements which includes Legal fees paid to various consultants hired for legal representations as per the sampled payment vouchers totalling to Kshs.23,544,816. However, review of supporting documents provided for audit revealed the following anomalies:

- i) County legal office engaged the services of several consultants to render legal services without the approval of the Attorney-General or the County Executive Committee in contravention of the Office of Attorney General Act of 2012 and The County Attorney Act of 2020.
- ii) Records maintained by the County Executive excludes engagement letters with the consultants to show how they were identified and the terms and conditions of the contract.
- iii) The files did not include itemized fee notes and invoices to clearly outline how the Consultants came up with the charges that the County executive has incurred.
- iv) Amounts involved appeared to be high and may not be sustainable. The County Executive did not demonstrate measures put in place to control legal expenditure.
- v) The hiring of the legal consultants was not competitively done since they were merely picked from a list of consultants.

In the circumstances, the regularity, accuracy and completeness of the legal fees paid could not be confirmed.

5. Unconfirmed Transfer of Refugee Assistance

Note 7 to the financial statements reflects Other Grants and Transfers expenditure amounting to Kshs.148,284,036. Included in this amount is emergency relief and refugee assistance amount totalling Kshs.35,041,025. Records provided in support of this amount reflects disbursements from County Executive to Emergency Relief and Refugee Assistance totalling to Kshs.36,400,000 while the supporting IFMIS payment schedule reflects Kshs.37,738,245. The variances between the three (3) amounts were not reconciled or explained.

In the circumstances, the accuracy and completeness of the Other Grants and Transfers amount of Kshs.148,284,036 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Makueni Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other

ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.11,544,836,718 and Kshs.8,777,873,656 respectively resulting to an under-funding of Kshs.2,766,963,062 or 24% of the budget. Similarly, the County Executive spent Kshs.8,607,340,676 against an approved budget of Kshs.11,544,836,718 resulting to an under-expenditure of Kshs.2,937,496,042 (or 25%) of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

Key Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for 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. Pending Bills

Note 15(1) to the financial statements under other important disclosures reflects Kshs.675,912,955 in respect to pending accounts payables. Included in the amount is pending bills from prior years for supply of goods and services totalling Kshs.116,417,666. Additions for the year amounted to Kshs.603,102,050 while pending accounts payables paid during year amounted to Kshs.43,606,761. However, review of Annex 2 to the financial statements showed that pending accounts payables amounting to Kshs.105,804,669 relating to LAP- Fund were payables for prior years. The bills did not form the first charge as required and no explanation was provided for failure to comply with the Law and the various Circulars from the Controller of Budget and the National Treasury. The validity of pending bills totalling Kshs.675,912,955 reflected in the financial statements could not be confirmed.

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

2. Failure to Provide Monthly Financial and Non-financial Budgetary Reports

Review of budget records revealed that monthly financial and non-financial budgetary reports were not provided for audit and were not maintained at the County Executive as required by the PFM County Government Regulation 54.

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

3. Anomalies in the Implementation of E-procurement System

Review of the procurement processes of the County Executive revealed that e-procurement system (Oracle) was in place but was not fully implemented during the year under review contrary to Regulation 52 of the of Public Procurement and Asset Disposal Regulations 2020. Further, manual procurement processes were performed without the necessary approval.

Included in the sampled payments is Kshs.30,160,000 paid to a firm for the supply, implementation and commissioning of a Revenue Management and Administration System vide contract No.GMC/F/T/006/2016/2017 dated 19 January, 2017. The procurement process used to award the tender to the mentioned supplier was purely manual.

In addition, a sample of selected payments totalling Kshs.44,156,472 made under the office of the Governor procured via e-procurement revealed the following anomalies.

- i. The procurement plan was not prepared through the e-procurement system.
- ii. The participating bidders were not invited for tender opening as the system does not allow bidders to participate in opening tenders.
- iii. The system combines both the tender opening and tender evaluation processes and the accounting officer appoints only one committee to handle both functions.
- iv. The Management did not have digital signature certificates for accounting officer, head of procurement and opening and evaluation committee members.

In the circumstance, the County Executive Management violated the provisions of Public Procurement Act, 2015 and its Regulations of 2020.

4. Identification, Collection, and Accounting for Own Generated Revenue

During the year under review, management of own generated revenue of Makueni County revealed that there were delays in sweeping of the revenue collection accounts to the County Revenue Fund account. In the month of June 2022, two (2) transfers were done on 2 June, 2022 of Kshs.27,477,415 and on 6 June, 2022 of Kshs.2,743,176 from a collection account number 1140751719 at KCB - Wote Branch to account at Central Bank of Kenya. The next transfer of Kshs.16,129,149 was done on 17 June, 2022, eleven (11) days after the 6 June, 2022 transfer. The last transfer for the month, of Kshs.6,765,818 was done on 27 June, 2022 ten (10) days after the 17 June, 2022 transfer.

In the circumstances, revenue collected was not swept within 5 days contrary to Section 81(2) of the Public Finance Management County Government Regulations 2015.

The Management is in breach of the law.

5. Exceeded Wage Bill Limits

The statement of receipts and payments reflects that Makueni County Executive collected revenue totalling Kshs.8,777,873,656 while expenditure relating to wages and benefits for the County Public Staff amounted to Kshs.3,405,879,803 which is approximately 39% of the total revenue collected and exceeded the recommended ratio of 35% stipulated in Section 25 (1) of the Public Finance Management (County Governments) Regulations 2015.

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

6. Violation of a Third Basic Pay Rule

Review of payroll records provided for audit revealed that during the month of June, 2022 a total of eighty-six (86) employees of the County Executive earned net pay below a third of their basic pay contrary to Section 19(3) of the Employment Act 2007.

In circumstances, Management is in breach of the Act.

7. Non-compliance with the Staff Ethnic Composition Threshold

Review of human resource records revealed that the County Executive of Makueni had a total of 3,502 employees out of which 3224 representing 92% of the total workforce were from the local dominant community. This is contrary to the National Cohesion & Integration Act, 2008 on ethnic composition thresholds requirement.

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

8. Project Implementation Report – Department of Agriculture

During project inspection for Construction of a chain link fence, proposed external works, apiary shed and proposed facelift works at ATC Kwa Kathoka, the following observations were made;

- i. Apiary shed was complete but not in use.
- ii. Landscaping works lacked proper maintenance hence 'Kikuyu grass' had dried up.
- iii. The projects did not have sign posts therefore it was not possible to ascertain whether the projects were actually done by County Executive.

In the circumstances, the Public may not have derived value for money from the project.

9. Processing Salaries through Manual Payroll

Review of the payroll documents provided for audit reviewed that the County Executive processed salaries totalling Kshs.212,599,439 through a manual payroll as detailed here below:

Month	Gross pay (Kshs.)	Total deductions (Kshs.)	Net pay (Kshs.)
July	13,204,094	1,576,624	11,627,470
August	13,623,479	1,792,857	11,830,622
September	12,634,278	1,929,108	10,705,170
October	13,487,455	2,319,938	11,167,517
November	14,426,492	2,114,450	12,312,042
December	14,333,949	1,700,687	12,633,262
January	22,486,698	4,982,195	17,504,503
February	21,164,628	4,048,385	17,116,243
March	21,002,899	3,861,627	17,141,272
April	21,573,790	2,573,857	18,999,933
May	22,317,884	4,176,818	18,141,066
June	22,343,794	4,221,655	18,122,139
Total	212,599,439	35,298,200	177,301,239

Manual payroll system requires use of manual calculations for deductions to ascertain the monthly pay and constant updates of data which makes it prone to human error and misuse leading to weak internal controls on the management of personnel emoluments.

In the circumstances, the accuracy and completeness of the salaries amounting to Kshs.212,599,439 paid via manual payroll could not be confirmed.

10. Delayed Project Completion

Note 8 to the financial statements reflects construction of buildings expenditure of Kshs.41,575,406. Included in this amount is Kshs.10,860,183 paid a construction company on 6 April, 2020 for the construction of document warehouse and County Treasury at a contract sum of Kshs.40,146,166 and for a project duration of 40 weeks with expected completion date of 20 March, 2021.

Physical inspection conducted on 27 October, 2022 revealed that even after one hundred and four days (104) days project extension, the project was 95% complete though in use. The following works were still outstanding:

- i. Kitchen cabinets - low level and high level and toilet accessories, mirrors, toilet roll holders, towel rails and urinal basins were yet to be fitted.
- ii. Drainage works and spreading of sand blinding and placing of cabro paving were incomplete.
- iii. Erection of masonry fence for security purposes and persons with disability accessibility was still outstanding.

In the circumstances, the residents were not receiving full value for money spent in the construction of the building.

11. Irregular Payment for Security Services without a Valid contract

Review of supporting documents for security services in respect of a security services firm revealed that a two (2) year service contract commenced on 1 September, 2018 and upon expiry, a one-year renewal was approved commencing 1 August, 2020 and ending on 2 September, 2021. However, despite expiry of the contract, the firm continued to provide security services to the County Executive up to the end of April, 2022 without a valid contract.

In the circumstances, payments amounting to Kshs.12,342,400 for the months starting October, 2021 to June, 2022 were irregular and Management is 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, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

Basis for Conclusion

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 Executive's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the appropriate basis of

accounting unless the Management is aware of the intention to dissolve the County or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the County Executive'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 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 control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation

to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the County Executive 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 Executive'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 Executive 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 Executive 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

26 January, 2023