

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF MANDERA 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 Executive of Mandera set out on pages 1 to 30, 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 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 Mandera 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.

Basis for Qualified Opinion

1.0 Presentation and Accuracy of the Financial Statements

Comparison of the balances reflected in the financial statements and the corresponding account balances in the Integrated Financial Management Information System (IFMIS) Ledgers revealed the following discrepancies:

Description	Financial Statements Kshs.	IFMIS Ledger Kshs.	Variance Kshs.
Compensation of Employees	2,945,863,521	2,881,808,686	64,054,835
Use of Goods and Services	2,367,996,193	2,134,561,729	233,434,464
Transfers to Other Government Units	1,709,878,092	1,024,793,983	685,084,109
Other Grants and Transfers	753,539,029	753,539,021	8
Acquisition of Assets	3,941,134,934	4,008,774,934	(67,640,000)
Total	11,718,411,769	10,803,478,353	914,933,416

In the circumstances, the accuracy of financial statements could not be confirmed.

2.0 Misclassification of Other Receipts

The statement of receipts and payments reflects exchequer releases (transfers from the CRF) amount of Kshs.10,669,260,693 which, according the supporting schedules provided for audit, includes receipts which did not come from exchequer issues received into the County Revenue Fund (CRF) amounting to Kshs.374,108,701, comprising transfers from other Government Entities, own generated revenue and return to CRF issues amounts of Kshs.241,181,601, Kshs.132,899,851 and Kshs.27,249 respectively. The receipts of Kshs.374,108,701 therefore relates to other receipts item.

In the circumstances, the accuracy of the reported exchequer releases (transfers from the CRF) and other receipts amounts of Kshs.10,669,260,693 and Kshs.5,880,000 respectively could not be confirmed.

3.0 Use of Goods and Services

The statements of receipts and payments, and as disclosed in Note 4 to the financial statements, reflect use of goods and services expenditure of Kshs.2,367,989,543. Review of documents in relation to the expenditure revealed the following anomalies:

3.1 Unaccounted for Medical Supplies

The use of goods and services expenditure of Kshs.2,367,989,543 includes specialized materials and services amount of Kshs.537,944,065 spent on drugs, non-pharmaceutical and lab reagents for various health facilities within the County. However, included in the latter amount is Kshs.9,559,062 for which, the respective health facilities' stores' counter requisition and issue vouchers (S 11), indicating how supplies were issued out were not provided for audit, contrary to Section 162(1) of the Public Procurement and Asset Disposal Act, 2015, which requires an accounting officer of a County procuring entity to ensure that all inventory, stores and assets purchased are received, but not used until taken on charge and as a basis for ensuring that all procured items are properly accounted for.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.9,559,062 could not be confirmed.

3.2 Unsupported Expenditure on Legal Fees

The use of goods and services expenditure of Kshs.2,367,989,543 includes other operating expenses amounting to Kshs.570,273,421 out of which, Kshs.27,786,021 was in respect of legal fees. However, the latter amount includes Kshs.6,748,000 whose supporting documents showing initial fee note, amounts paid to date, outstanding balances (if any per case), the case(s) being handled and status of those cases, evidence of court attendance, rate as per advocate remuneration roll, statements or ledgers of advocates accounts and case files showing the value of each case to authenticate the payments, were not provided for audit.

In the circumstances, the accuracy, completeness validity and authenticity of the expenditure of Kshs.6,748,000 could not be confirmed.

3.3 Unsupported Payments on Repair of Motor Vehicles

Included in the use of goods and services expenditure of Kshs.2,367,989,543 is routine maintenance-vehicles and other transport equipment amount of Kshs.119,611,890 out of which, Kshs.5,050,000 was spent on repair of motor vehicles. However, the supporting motor vehicle work tickets indicating the dates the vehicles were in the garage were not provided for audit.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.5,050,000 could not be confirmed.

3.4 Unsupported Payments for Water Trucking Services

Included in the use of goods and services expenditure of Kshs.2,367,989,543 is rental of produced assets amount of Kshs.197,974,352 out of which, Kshs.3,389,646 was paid for water trucking services. However, the supporting water trucking schedule showing the date, centre, number of trips and volume of water delivered; and work tickets showing the movement of motor vehicles supplying water to various centres were not provided for audit.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.3,389,646 could not be confirmed.

3.5 Unsupported Expenditure on Office and General Supplies and Services

Included in the use of goods and services expenditure of Kshs.2,367,989,543 is office and general supplies and services amount of Kshs.249,998,169 which further includes an expenditure of Kshs.3,000,000 whose supporting documents such as requisitions from user department to initiate the procurement process and inspection and acceptance committee certificate to confirm that goods delivered conformed to the orders for supplies, were not provided for audit.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.3,000,000 could not be confirmed.

3.6 Unsupported Payments for Fuel, Oil and Lubricants

Included in the use of goods and services expenditure of Kshs.2,367,989,543 is fuel, oil and lubricants amount of Kshs.43,509,026 which further includes an expenditure of Kshs.935,000 whose supporting fuel registers and detailed orders were not provided for audit.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.935,000 could not be confirmed.

3.7 Unsupported Expenditure on Contracted Security Services

Included in the other operating expenses amount Kshs.570,273,421 is an expenditure of Kshs.40,147,205 incurred on provision of security services. However, procurement records showing how the service provider was selected were not provided for audit.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.40,147,205 could not be confirmed.

3.8 Unsupported Cash Payments

The use of goods and services expenditure of Kshs.2,367,989,543 includes cash payments amounting to Kshs.33,520,376 which comprise Kshs.4,150,000 paid to two (2) suppliers through the Department of Agriculture and Kshs.29,370,376 paid to Mandera County Special Purpose Account through the Department of Lands. However, Management did not provide explanations and details of the cash payments.

In the circumstances, accuracy, completeness, validity and authenticity of cash payments totaling Kshs.33,520,376 through the two Ministries could not be confirmed.

4.0 Acquisition of Assets

The statements of receipts and payments, and as disclosed in Note 7 to the financial statements, reflects acquisition of assets expenditure of Kshs.3,941,134,934. However, examination of documents in relation to the expenditure revealed the following anomalies:

4.1 Unsupported Expenditure on Rehabilitation and Maintenance of Water Infrastructure

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is rehabilitation of civil works amount of Kshs.442,260,004 out of which, Kshs.9,025,000 was in respect of rehabilitation and maintenance of water supply infrastructure. However, certificate of practical completion and inspection and acceptance certificate supporting of the latter amount were not provided for audit.

Further, the amount of Kshs.442,260,004 includes Kshs.295,198,200 paid to one (1) contractor through the Department of Water in respect of rehabilitation of civil works contracts relating to water and sewerage infrastructure. However, the relevant contract agreements supporting the latter amount were not provided for audit. As result it was not possible to ascertain the contract sums, contract periods and amounts of retentions deductible from the amounts payable to the contractor.

In the circumstances, the accuracy, completeness, validity and authenticity of the payments of Kshs.9,025,000 and Kshs.295,198,200 could not be confirmed.

4.2 Unsupported Expenditure on Construction of Buildings

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is construction of buildings amount of Kshs.791,280,028 which further includes Kshs.84,175,239 paid to various contractors. However, supporting documents, including contract documents indicating the contract sums and the contract periods, and inspection and acceptance committee certificates confirming that works were carried out as per specifications, were not provided for audit.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.84,175,239 could not be confirmed.

4.3 Unsupported Expenditure on Refurbishment of Buildings

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is refurbishment of buildings amount of Kshs.351,880,838 which further includes Kshs.1,200,000 paid to various contractors. However, supporting documents such as certificate of completion indicating the stage of works done and inspection and acceptance committee certificate confirming that works were carried out as per specifications, were not provided for audit.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.1,200,000 could not be confirmed.

4.4 Unsupported Payments on Construction of Road Projects

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is construction of roads amount of Kshs.504,169,455 out of which, Kshs.71,809,702 was spent on road projects in respect of which, the supporting inspection and acceptance committee certificates to confirm that works were carried out as per specifications, were not provided for audit.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.71,809,702 could not be confirmed.

4.5 Purchase of Specialized Plant, Equipment and Machinery

4.5.1 Construction and Equipping of Radiology Centre at Rhamu Sub-County

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is purchase of specialized plant, equipment and machinery amount of Kshs.113,021,576 out of which, Kshs.9,527,586 relates to a contract for the construction and equipping of radiology center at Rhamu Sub-County at a contract sum of Kshs.30,092,952, for a contact period of one (1) year commencing on 26 May, 2021 and ending on 31 May, 2022. However, certificate of practical completion and inspection and acceptance committee report supporting the payment of Kshs.9,527,586 were not provided for audit.

Further, audit inspection carried out on 19 November, 2022 revealed that the radiology building was complete but not in use. It was also noted that: an X-ray unit supplied at a cost of Kshs.7,500,000 was not being utilized because a voltage regulator required to be installed at a cost Kshs.1,500,000 had not been installed; registration, inspection and licensing with a provision of Kshs.500,000 in the bill of quantities was not implemented; and the Ultrasound supplied at a cost of Kshs.2,500,000 was not being utilized.

In the circumstances, the accuracy, completeness and the value for money of the expenditure of Kshs.9,527,586 could not be confirmed.

4.5.2 Supply, Delivery, Installation and Commissioning of Oxygen Plant and Medical Equipment for Mandera West, Kutulo and Mandera North Sub-Counties

The purchase of specialized plant, equipment and machinery amount of Kshs.113,021,576 also includes Kshs.29,482,759 spent on a contract for the supply, delivery, installation and commissioning of oxygen plant and medical equipment for Mandera West, Kutulo and Mandera North Sub-Counties at a contract sum of Kshs.111,949,404, for a contract period of one (1) year from 26 May, 2021 to 31 May, 2022. However, inspection and acceptance committee report supporting the payment of Kshs.29,482,759 was not provided for audit.

Further, audit inspection conducted on 19 November, 2022 revealed that the Biochemistry machine (open dry biochem) supplied at a cost of Kshs.2,900,000 for

Rhamu Hospital was not in use due to lack of the startup reagents and non-training of the user department personnel.

In the circumstances, the accuracy, completeness and the value for money of the expenditure of Kshs.29,482,759 could not be confirmed.

4.6 Construction and Civil Works

4.6.1 Unsupported Expenditure on Construction and Civil Works

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is construction and civil works amount of Kshs.1,712,683,468 which further includes Kshs.321,731,503 paid to one (1) contractor through the Department of Finance and Kshs.165,363,795 paid to five (5) contractors through the Department of Public Works, both totaling to Kshs.487,095,298. However, the relevant contract agreements supporting the latter amount were not provided for audit. As a result, it was not possible to ascertain the contract sums, contract periods and amounts of retentions deductible from the amounts payable to the contractors.

In the circumstances, the accuracy, completeness, validity and authenticity of the expenditure of Kshs.487,095,298 could not be confirmed.

4.6.2 Unsupported Expenditure on National Government's Airstrips

Included in the construction and civil works amount Kshs.1,712,683,468 is Kshs.121,956,189 incurred on construction of airstrips which fall under the National Government functions. Although the Management provided the letter of approval from the Ministry of Transport and Infrastructure for construction of airstrips, there was no evidence of a written agreement between the two levels of Government detailing the levels of technical, financial and capacity building support expected from National Government agencies like Kenya Airport Authority and Kenya Civil Aviation Authority, as required by Article 187 of Kenyan Constitution, to guide the implementation of this projects. In addition, it was not clear whether the same projects were also funded by the National Government through the line ministries and respective National Government constituencies development funds.

In the circumstances, the accuracy, completeness and validity of the expenditure of Kshs.121,956,189 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 Mandera 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

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.13,283,669,212 and Kshs.10,675,140,693 respectively, resulting to underfunding of Kshs.2,608,528,519 (or 20% of the budget). Similarly, the statement reflects final expenditure budget of Kshs.13,283,669,212 and actual expenditure on comparable basis of Kshs.11,718,405,118, resulting to under-expenditure of Kshs.1,565,264,094 (or 12% of the budget).

The underfunding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the residents of Mandera County.

2.0 Non-Contribution of Counterpart Funding - Agriculture Sector Development Supporting Programme II

The statement of receipts and payments reflects transfer to other Government entities expenditure of Kshs.1,709,878,092 which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.10,522,896 transferred to the Agriculture Sector Development Support Programme (ASDSP). Review of the Memorandum of Understanding between Government of Kenya and Government of Sweden revealed that one of the pre-conditions to commence implementation of ASDSP was for Counties to make own contribution to the programme to trigger the Government of Kenya and Government of Sweden counterpart funding. The contribution schedule in the signed Memorandum of Understanding provided that an amount of Kshs.5,500,000 should be contributed by Counties in each of the financial years. However, during the financial year under review, the Mandera County Government did not make own contribution amount of Kshs.5,500,000 to the Agriculture Sector Development Supporting Programme II.

As a result, the project did not receive an amount of Kshs.2,500,000 from the Government of Kenya and Kshs.18,493,936 from the Government of Sweden, totaling to Kshs.26,493,936, being funds for the financial year ended 30 June, 2022.

The non-funding led to the delay in the commencement of implementation of planned activities as per the work plan for the year ended 30 June, 2022.

3.0 Pending Bills

As disclosed in Note 1.a to the financial statements, under other important disclosures section, the County Executive had pending accounts payables as at 30 June, 2022 of

Kshs.500,228,176 relating to supply of work, goods and services; salary arrears of Kshs.1,208,874,922; and legal fee arrears of Kshs.82,308,279, all totalling to Kshs.1,791,411,377.

The existence of huge pending bills at the close of the financial year may affect efficiency in implementation of subsequent year's budgeted programs.

4.0 Unresolved Prior Year Matters

In the report for the previous year, several issues were raised under the Report on Financial Statement, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management had not addressed the issues as at 30 June, 2022. Management did not provide satisfactory explanations for not resolving the prior year audit issues.

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

1.0 Non-Preparation of Financial Statement for One (level 5) Hospital and Six Level 4 Hospitals

During the financial year ended 30 June, 2022, Mandera County Department of Health, the Management of Mandera County Referral Hospital (level 5 Hospital) and the Management of six (6) level 4 hospitals based in various Sub-Counties within Mandera County did not prepare and submit annual reports and financial statements to the Auditor-General as required by the National Treasury Circular No. AG.4/16/3 Vol.11(66) issued on 06 July, 2022. The Circular required all level 4 and level 5 hospitals to prepare financial statements as per the guidelines provided by the Public Sector Accounting Standards Board (PSASB) on presentation of the financial statements.

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

2.0 Acquisition of Assets

The statement of receipts and payments, and as disclosed in Note 7 to the financial statements, reflects acquisition of assets expenditure of Kshs.3,941,134,934. Audit of this expenditure revealed the following unsatisfactory matters:

2.1 Slow Progress in Implementation of upgrading of Malka Punda Road to Bitumen standard in Mandera East Sub-County Project

The acquisition of assets expenditure of Kshs.3,941,134,934 includes construction of roads amount of Kshs.504,169,455 out of which, Kshs.42,637,931 is in respect of a contract for upgrading of Malka Punda Road to Bitumen standard in Mandera East Sub-County at a contract sum of Kshs.169,239,438, for a contract period of two (2) years, starting on 29 April, 2021 and ending on 30 April, 2023. However, audit inspection conducted on 19 November, 2022 revealed slow progress in the implementation of the project which was 56% complete and, therefore, was unlikely to be completed within the contract period.

In the circumstances, the expected service delivery from the project may not be realized in as soon as expected.

2.2 Slow Progress of the Construction of Box Culvert Celled Drifts

Included in the acquisition of assets expenditure of Kshs.3,941,134,934 is construction and civil works amount of Kshs.1,712,683,468 out of which, Kshs.30,000,000 relates to a contract for construction of box celled culverts, celled drift at Arabia Sub-County at a contract sum of Kshs.146,591,520, for a contract period of approximately two (2) years from 12 April, 2021 to 30 April, 2023. However, audit inspection of the project carried out on 19 November, 2022 revealed that the project was 52% complete and was, therefore, unlikely to be completed by the contract's expiry date of 30 April, 2023.

In the circumstances, benefits expected from the project may not be realized as soon as expected.

3.0 Non-Competitive Procurement of Water Supplies and Sewerage Services

The statement of receipts and payments reflects total expenditure of Kshs.11,718,405,425 which includes Kshs.772,730,231 incurred under the Department of Water. However, analysis of payment records relating to the Department revealed that out of the latter amount, Kshs.295,198,200 (38%) was paid to one (1) contractor in respect of contracts related to rehabilitation of water and sewerage infrastructure. This was contrary to Article 227(1) of the Constitution of Kenya, 2010, which provides that when a state organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

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

4.0 Human Resource Management

The statement of receipts and payments, and as disclosed in Note 3 to the financial statements, reflects compensation of employees expenditure of

Kshs.2,945,863,521. However, audit of this amount and review of records relating to human resource revealed the following unsatisfactory matters:

4.1 Lack of Approved Staff Establishment

Included in the compensation of employees expenditure of Kshs.2,945,863,521 are basic salaries of permanent employees and basic wages of temporary employees amounts of Kshs.1,010,505,125 and Kshs.224,653,842 respectively. Review of records relating to compensation of employees revealed that during the year under review, the County Executive had two payroll systems in operation – a manual payroll and an Integrated Personnel and Payroll Database (IPPD) system. The payrolls reflected three thousand four hundred and five (3,405) employees in the PPD system, while five hundred and thirty-five (535) employees were in the manual payroll. However, the County Executive was yet to update or approve its personnel establishment and thus managed its personnel without an approved staff establishment. This was contrary to Section 5(2)(f) of the County Government Act, 2012 which states that one of the functions of the County Government is establishment and staffing of its public service as contemplated under Article 235 of the Constitution. As a result, it was not possible to ascertain the adequacy, existence and the necessity to fill vacancies whenever a vacancy arises.

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

4.2 Officers Earning Less than One-Third of the Basic Pay

Analysis of the IPPD system data for the 2021/2022 revealed that three (3) employees were being paid net salaries that were less than a third (1/3) of their respective basic pays during the year, thus over committing their salaries, contrary to Part C.1(3) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which stipulates that public officers shall not over commit their salaries beyond two thirds (2/3) of their basic salaries..

In the circumstances, the Management was in breach of the Human Resource Policies and Procedure Manual of the the Public Service.

5.0 Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.2,367,989,543 which, and as disclosed in Note 4 to the financial statements, includes other operating expenses amount of Kshs.570,273,421. However, review of documents relating to the latter amount revealed the following unsatisfactory matters:

5.1 Illegal Payments

Included in the other operating expenses amount of Kshs.570,273,421 is Kshs.1,000,000 paid to the Council of Governors as legal funds, contrary to Section 37 of the Intergovernmental Relations Act, 2012 which requires operational expenses of the Council of Governors to be funded by the National Government.

Further, the operating expenses amount of Kshs.570,273,421 includes a contribution of Kshs.2,400,000 to Frontier Development Council, a regional bloc and Kshs.22,479,999 paid as constituency office expenses. However, the two payments were not backed by any law.

In the circumstances, the Management was in breach of the law. In addition, value for money of the expenditure of Kshs.25,879,999 could not be confirmed.

5.2 Non-Competitive Procurement of Legal Services

Included in the other operating expenses amount of Kshs.570,273,421 is Kshs.27,786,021 incurred on legal fees in respect of legal services rendered to the County Executive. However, examination of payment vouchers and supporting documents revealed that the legal services were not competitively sourced from the registered pre-qualified legal firms, contrary to Section 95(3) of the Public Procurement and Asset Disposal Act, 2015, which provides that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified. Further, one (1) firm was paid Kshs.19,716,512 (or 71%) out of the total legal fees of Kshs.27,786,021, contrary to Section 106(2)(b) of the Public Procurement and Asset Disposal Act, 2015, which stipulates that an accounting officer of a procuring entity shall ensure that request for quotations are given to as many persons as necessary to ensure effective competition and shall be given to at least three persons, unless that is not possible. This indicates skewed procurement of legal services to the disadvantage of other firms.

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

6.0 Non-Establishment of County Emergency Fund

The statement of receipts and payments reflects other grants and transfers expenditure of Kshs.753,539,029 which, as disclosed in Note 6 to the financial statements, includes an expenditure of Kshs.633,539,028 in respect of emergency relief and refuge assistance. However, the County Executive did not establish and operate a County Emergency Fund to enable payments to be made when an urgent and unforeseen need for expenditure arises for which there is no specific legislative authority. This was contrary to Section 110 of the Public Finance Management Act, 2012.

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

7.0 Non-Compliance with Year End Closing Procedures

Disclosed under note 8A to the financial statements are bank balances for eleven (11) bank accounts operated by the County Executive for the year ended 30 June, 2022. The Management closed processing of the 2021/2022 financial year receipts and payments on 18 July, 2022, obtained bank balance certificates for the eleven (11) as at 19 July 2022. Explanations from the Management was based on the fact that the National Treasury released substantial amount of Development, Recurrent and Donor Funds budgeted for 2021/2022 few days towards the close of financial year 2021/2022 and

allowed County Governments a window of up to 18 July, 2022 to clear all payments which were due for payment and validated by Controller of Budget (COB) so as to minimize on the pending bills especially during that period of transition of County leadership and governance.

Review of cash books, bank statements and 2021/2022 IFMIS data confirmed that bank balance reflected under Note 8A to the financial statements represented the actual cash and cash equivalents as at 30 June, 2022. However, the issue of obtaining bank balance certificates as at 19 July 2022 was contrary to Treasury Circular No.AG.3/88/VOL.VII. (21) dated 11 May, 2022 on year end closing procedures, which required bank balances certificates obtained as at 30 June, 2022 and reconciled to receipts and payments processed within 18 July, 2022.

In the circumstances, the Management breached requirements of Treasury Circular No. AG.3/88/VOL.VII. (21) dated 11 May, 2022 on year end closing procedures.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

Basis for Conclusion

1.0 Un-Updated Fixed Assets Register

The summary of non-current asset register at Annex 3 reflects a non-current assets balance of Kshs.38,272,934,528 as at 30 June, 2022, which includes assets added during the year under review totaling to Kshs.3,941,134,934, relating to buildings and structures; transport equipment; office equipment, furniture and fittings; machinery and equipment; and infrastructure assets (roads and rails). However, the supporting fixed assets register provided for audit had not been updated with the assets purchased during the year as required by Section 136 of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the strength of the internal controls over non-current assets and their continuous application could not be confirmed.

2.0 Non-Functional Audit Committee

Information provided indicated that the County Executive had established an Internal Audit Unit and an Internal Audit Committee. However, during the year under review, the Committee did not deliberate on any of the six (6) reports prepared by the Internal Audit Department, contrary to Section 168(b) of the Public Financial Management (County Governments) Regulations, 2015, which requires an audit committee to follow up on the implementation of the recommendations of internal and external auditors.

The dormancy of the Audit Committee during the year under review constitute weak internal controls which could have resulted to poor governance and possibility of financial loss.

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 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 applicable basis of accounting unless Management is aware of the intention to terminate the County Executive 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 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's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the 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

09 March, 2023