REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF TRANS NZOIA 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 the 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 Trans Nzoia set out on pages 1 to 48, 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 the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the County Executive of Trans Nzoia as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012, and County Governments Act, 2012.

Basis for Qualified Opinion

1. Unaccounted for Office Stationeries and Cleaning Materials

The statement of receipts and payments reflects an expenditure of Kshs.422,632,918 under other payments which includes an amount of Kshs.127,199,761 spent on office stationeries and cleaning materials by the Departments of Health and Finance. However, stores records such as S3 forms and S11 forms indicating how the items were received and issued were not maintained. This was contrary to Section 162(1) of the Public Procurement and Asset Disposal Act, 2015 which requires an Accounting Officer of a procuring entity to ensure that all inventory, stores and assets purchased are received, but shall not be used until taken on charge as a basis for ensuring that all procured items are properly accounted for and put in proper use as intended by the procuring entity.

In the circumstances, the accuracy, propriety and completeness of the expenditure of Kshs.127,199,761 could not be confirmed.

2. Failure to Receipt Revenue

The County Executive collected revenue amounting to Kshs.177,831,271 through the ZIZI revenue system. This amount does not include revenue collected by health facilities which is accounted for and banked separately. An analysis of the bank statements indicates that the county received revenue amounting to Kshs.196,037,501. This results in a variance of Kshs.18,206,230 which was not receipted.

In the circumstances, the accuracy of the receipts could not be ascertained.

3. Anomalies in Other Operating Expenses

The statement of receipts and payments reflects an expenditure of Kshs.1,201,401,824 under use of goods and services which includes an amount of Kshs.201,157,225 in respect of other operating expenses as disclosed in Note 3 to the financial statements. However, payments amounting to Kshs.14,419,369 were made to clear pending bills that were for the prior years which were not disclosed in the year 2020/2021 financial statements. Further, payments for goods totalling Kshs.4,917,026 were not recorded in the store's ledger while payments for legal fees totalling Kshs.6,129,224 were not supported by case files.

In the circumstances, the accuracy and completeness of other operating expenses of Kshs.25,465,619 could not be confirmed.

4. Misclassification of Expenditure Under Construction and Civil Works

The statement of receipts and payments reflects an expenditure of Kshs.1,782,559,268 on acquisition of assets which includes an amount of Kshs.753,042,782 for construction and civil works as disclosed in Note 6 to the financial statements. However, payments totalling Kshs.109,204,957 paid through the Department of Gender, Youth, Culture, Sports and Tourism were for the purchase of household goods, including blankets and cooking gas cylinders, that are not construction in nature.

In the circumstances, the construction and civil works expenditure of Kshs.109,204,957 for the year ended 30 June, 2022 could not be confirmed.

5. Unsupported Expenditure on Construction of Roads

The statement of receipts and payments reflects an expenditure of Kshs.1,782,559,268 on acquisition of assets which includes an amount of Kshs.233,231,152 for the construction of roads as disclosed in Note 6 to the financial statements. However, the respective procurement and project implementation records such as requisitions, tender advertisements, appointment letters for Tender Opening and Evaluation Committee Members, tender opening and evaluation minutes, priced bills of quantities, measurement of works and site inspection minutes were not provided for audit.

In the circumstances, the propriety of the expenditure amounting to Kshs.233,231,152 could not be confirmed.

6. Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects a bank balance of Kshs.110,200,648 as at 30 June, 2022 as detailed in Note 8 to the financial statements. However, the balance includes Kenya Commercial Bank National Agriculture and Rural Inclusive Growth Programme (NARIGP) operations account balance of Kshs.52,181,172 and Kenya Commercial Bank Agricultural Sector Development Support Programme (ASDSP) account balance of Kshs.8.804,649. During the year under review, the County Government transferred Kshs.225,041,254 and Kshs.12,194,066 to NARIGP and ASDSP respectively. However, the transferred amounts were fully recognized as expenditures in the statement of receipts and payments. The Management did not explain why the balances were still reflected in the statement of assets and liabilities.

Consequently, the accuracy and completeness of the bank balance of Kshs.110,200,648 as at 30 June, 2022 could not be confirmed.

7. Lack of Disclosure of Assets in Summary of Non-Current Assets Register

Annex 5 to the financial statements reflects a summary of non-current asset register balance of Kshs.12,588,669,075 which includes an amount of Kshs.1,782,559,268 in respect of acquisitions during the year. However, the asset register presented for audit did not reflect the assets acquired during the year. Further, the asset register was not prepared in conformity with the Guidelines on Asset and Liability Management in the Public Sector of March, 2020 issued by the Cabinet Secretary to The National Treasury.

In the circumstances, the accuracy and completeness of non-current assets balance of Kshs.12,588,669,075 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Trans Nzoia 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 of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.9,305,304,756 and Kshs.7,953,219,439 respectively resulting to an under-funding of Kshs.1,352,085,317 or 15% of the budget. Similarly, the County Executive spent Kshs.7,856,324,225 against an approved budget of Kshs.9,305,304,756 resulting to an under-expenditure of Kshs.1,448,980,531 or 16% of the budget.

The under-funding and under-expenditure are an indication that the planned programs and activities would be implemented and the public may not have received the envisaged services.

2. Accumulation of Pending Accounts Payables

Annex 2 to the financial statements indicates pending accounts payables balance of Kshs.821,549,884 as at 30 June, 2022. Review of schedules in support of the amounts from the respective Departments revealed significant variances as detailed below:

Department	Amount as per Financial Statements (Kshs.)	Amount as per Supporting Schedules (Kshs.)	Variance (Kshs.)
Public Works, Transport and Infrastructure	49,146,203	250,040,929	(200,894,726)
Environment, Water and Natural Resources	67,424,048	125,246,233	(57,822,185)
Gender, Youth, Sports, Culture and Tourism	22,422,514	96,430,033	(74,007,519)

However, schedules of pending accounts payables and supported invoices from some thirteen (13) Departments were not provided for audit. Further analysis of the schedules for the Department of Public Works, Transport and Infrastructure revealed pending accounts payables amounting to Kshs.176,576,529 which were not reflected in the Annex while an amount of Kshs.34,353,507 in the Annex and not in the schedules. Similarly, analysis of the schedules for the Department of Environment, Water and Natural Resources revealed pending accounts payables amounting to Kshs.67,689,350 which were not reflected in the Annex and Kshs.15,737,027 that were in the Annex and not in the schedules.

Accumulation of pending bills is contrary to The National Treasury Circular Ref. AG 3/101/75 which requires Accounting Officers to establish effective financial controls and maintain financial discipline for efficient use of resources. It is also contrary to Regulation

41(2) of the Public Finance Management (County Governments) Regulations, 2015 which requires that debt service payments should be a first charge on the County Revenue Fund.

Further, failure to settle pending bills during the year in which they relate distorts the financial statements and adversely affects the budgetary provisions for the subsequent year as they form a first charge.

3. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, and Report on Lawfulness and Effectiveness in Use of Public Resources, Report on Effectiveness of Internal Controls, Risk Management and Governance. Although Management has indicated that the issues have been resolved, the matters remain unresolved as the Senate has not deliberated and issued recommendations on them.

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. Acquisition of Assets

1.1 Variance on Parcels of Public Land within Kitale Municipality

A Task Force established by the County Government of Trans Nzoia, in consultation with the National Land Commission, through the Kenya Gazette Notice Vol.CXXIII-No.137 dated 25 June, 2021 in its report submitted to the Governor of Trans Nzoia County in June, 2022, established that the Kitale Municipality has 123 parcels of public land. This number of parcels of public land varied with 962 parcels included in the Trans Nzoia County Draft Land Valuation Roll of 17 September, 2015 translating to a reduction of 839 parcels of public land within 10 years. Further, review of the defunct Kitale Municipal Council Valuation roll of 20 November, 2006 revealed that the defunct Kitale Municipal Council had 1,403 parcels of public land at that time which was then reduced by 441 to 962 parcels as at 17 September, 2015. The Management, however, did not provide evidence that proper procedures for the allocation of public land were followed as required by Sections 12, 13 and 14 of The Land Act, 2012.

Further, the County Government charged rates based on a valuation roll that was approved in the year 2006 which is over 18 years contrary to Section 3 of the Valuation for Rating Act which requires every local authority to, at least once in every ten years or such longer period as the Minister may approve, cause a valuation to be made of every rateable property within the area of the local authority in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll.

1.2 Incomplete Asset Management Records

Review of the records in respect of the County assets revealed that the County Government does not maintain reliable, accurate and up-to-date fixed assets register and valuation register of properties. The asset register provided does not conform to the reporting templates issued by The National Treasury, and it did not have specific details of all the assets owned by the County Government. It was therefore not possible to identify the number of properties owned by the County Government and their valuation as at the time of audit. Further, the County Government does not have Asset Monitoring and Management System and therefore cannot link all assets to the Geographical Information System (GIS).

The County Government also lack approved Assets Management Policies and guidelines and has not developed county government asset and liability management guidelines in line with policy, guidelines and templates issued by Public Sector Accounting Standards Board (PSASB) with the concurrence of the Cabinet Secretary, The National Treasury and Economic Planning.

In addition, the County Treasury has not constituted County Assets and Liabilities Management Committees to assist the County Treasury in the overall implementation of the assets and liability management framework. Further, the County Treasury has not implemented a maintenance plan in respect of every non-financial asset .The Accounting Officer has also not undertaken a comprehensive verification and condition assessment of all tangible assets controlled or used by the entity during the financial year under review.

In addition, it was not possible to identify, verify the existence and ownership of assets including land, buildings, motor vehicles, computers and computer accessories, furniture and fittings, plant and equipment, roads, current assets, biological assets, intangible assets, and projects and work in progress owned by the County Government across all the Departments .

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

1.3 Implementation of the Construction of Kitale Multi-Storey Business Complex

The Trans Nzoia County Executive planned to construct the Proposed Multi Storey Business Complex Building in Kitale at a contract sum of Kshs.874,280,383. The financing model was to be co-funded in financial years 2018/2019, 2019/2020, 2020/2021 and 2021/2022 by the Kenya Urban Support Programme (KUSP) of Kshs.490,000,000; County Government of Trans Nzoia (CGTN) - Kshs.289,280,383; and Kenya Devolution Support Programme (KDSP) – Kshs.95,000,000. The contract awarded to a local construction company on 07 June, 2018 was to be implemented within an estimated completion period of 25 months, ending 07 July, 2020. The 586 closed-door market facility was aimed at providing market facilities to the public. However, project verification on 11 November, 2022, over 27 months after elapse of the contract period, revealed that the project was at about 70% completion level.

Further, review of the project records, and physical inspection of the project, revealed the following anomalies:

a) The external and internal walling estimated to cost Kshs.38,717,682 were expected to be made of natural stonework with a comprehensive strength of 7N/mm squared but concrete blocks were instead used. However, there were no approved variation orders by the Accounting Officer and the variations were not captured in the measurement of works.

b) The surface area of the internal walling estimated at 31,017 S/M was also reduced due to the change in plan from building 586 closed shops to having:

   i) Ground floor has an open floor plan with an open-air market, 108 lockable shops, 208 display stands, 14 food courts, 264 people sitting area, 1 boda boda Sacco office and 75 boda boda parking,

   ii) First and second floors have 256 (each 128) lockable shops, 608 (each 304) display stands and 228 (114 each) open-air spaces,

   iii) Third-floor plan has an open-air market, 314 display stands and 978 open spaces.

   iv) The number of lockable shops reduced from 586 to No.364, a reduction of 222. Similarly, the number of louvered double-leaved door was reduced by a similar number. Each door was costed at Kshs.83,115 implying that Kshs.18,451,530 was paid for work not done. Further, physical audit verification of the project revealed that the doors installed are normal steel doors expected to be less than half the price of louvered double-leaved doors.

Review of Valuation Certificate No. 9 revealed that an initial provision for works under Item No, 4 of Kshs.139,400,000 was revised upward by Kshs.81,150,000 (49%) to Kshs.208,945,123 after utilizing Kshs.127,795,123. This revision was not approved by the Evaluation Committee and the Accounting Officer.

Further, Certificate No.9 included Speciality provisional works under Item No. 5 estimated to cost Kshs.404,430,000. However, the Bill of Quantities and the measurement of works in support of the Kshs.315,038,427 paid for the specialty works were not presented for audit making it difficult to establish whether the works were competitively sourced and that the payments made were for actual work done.

In the circumstances, it was not possible to confirm that the contract was implemented as envisaged and in compliance with Section 150 of the Public Procurement and Asset Disposal Act, 2015 which requires an Accounting Officer or his or her appointed representative to be responsible for ensuring that the goods, works and services are of the right quality and quantity.

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

2. Proposed Construction of Trans Nzoia County Teaching and Referral Hospital

The statement of receipts and payments reflects an expenditure of Kshs.1,782,559,268 under acquisition of assets which includes an amount of Kshs.275,948,775 in respect of construction of buildings. The latter amount includes an amount of Kshs.108,400,393 paid to a consultant for services rendered for the construction of Trans Nzoia County Teaching and Referral Hospital contract No. CGTN/CTC/114/2014-2015.

However, the contract agreement was not presented for audit review and therefore it was not possible to establish the initial contract sum and terms. Further, minutes of site visits conducted on 7 and 8 February, 2019 indicated a contract sum of Kshs.732,338,531 for Phase 2 and a revised contract sum for Phase 1 of Kshs.687,192,065 implying that the revised contract sum was Kshs.1,419,530,596.

Records presented for audit revealed that Phase 1 of the project was completed on 23 July, 2016 and Phase 2 of the project commenced on 15 December, 2018 with a projected completion date of 30 September, 2020.

A site verification on 28 October, 2022 revealed the following:

(i) Construction on the second floor of four (4) theatres, the extension of a new wing and restaurant and cafeteria with estimated costs of Kshs.69,487,816.90, Kshs.90,789,233.62 and Kshs.22,721,066 respectively, were not in the original Bill of Quantities. Further, variations amounting to Kshs.182,698,117 were not approved by the Evaluation Committee and the Accounting Officer contrary to Section 139(1) and 139(2) of the Public Procurement and Asset Disposal Act. The variations escalated the contract sum to Kshs.1,602,528,713.

(ii) Phase 2 of the project remained incomplete as at 28 October, 2022, one hundred (100) weeks after elapse of the target completion date of 30 September, 2020. The following observations were also made:

a) Construction of the accident and emergency theatre was ongoing while the construction of the extended four (4) theatre rooms was also ongoing at about 35% completion.

b) The walls of theatre rooms on the ground floor had only one coat of paint applied while second floor's flooring was not done, doors were not fixed, electrical wiring was not done and painting was not done.

c) Various additional works including three (3) lifts; a second floor consisting of the main laboratory, ENT unit and other undefined areas; sixteen (16) ICU wards; a new maternity theatre and an undefined area had stalled.

d) There were also no Medical Engineer Reports on the new changes and how this would impact the project. For instance; the open air and light coming through the corridor adjacent to the maternity wing were blocked by the contraction of additional areas leaving the corridor dark and losing esthetic value for the hospital. The section will have to be completely lit during the day and the impact should be further reviewed with an independent Medical Engineer.

e) The foundation, frame and original pillars of the building have not been changed yet the building's plan has been changed from 2 to 3 floors. This has not been supported with tests to indicate that the building can carry and sustain the pressure of an additional floor, the equipment and the occupants.

f) The external wall fence keying was not done hospital road leading to the referral hospital was poorly done with dangerous blind corners leading to a steep depression that is dilapidated and with no road signs. The road did not have a retaining wall as required. Further, the service gate leading to the mortuary was poorly done, and not accessible by motor vehicles since the road is built 1.5 metres below the entrance.

(iii) A sub-contractor was paid Kshs.6,412,264 for the filling of medical oxygen cylinders at the hospital. The filling was however done at the hospital's oxygen plant which was installed by the sub-contractor.

(iv) There were no meaningful activities on site, an indication that the project was stalled even though the hospital was commissioned in August, 2022 in its incomplete status.

In the circumstance, it was not possible to ascertain whether value for money was obtained from funds incurred on the project, and Management was in breach of the law.

3. Lack of a Detailed Procurement Plans and Implementation of the E-Procurement System

The Annual Procurement Plan for the financial year 2021/2022 did not specify the works, goods and services to be procured and the timelines within which procurement was to be done. General terms were used to describe the items and an aggregate amount was fixed against the items making it difficult to confirm whether the activities paid for during the year were included in the Procurement Plan. This was contrary to Regulation 41 of the Public Procurement and Disposal Regulations, 2020.

The County Executive also conducted some of its procurement processes outside IFMIS contrary to Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the conduct of e-procurement procedures for the supply of goods, works and services be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

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

4. Compensation of Employees

4.1 Non-Compliance with the One Third of Basic Pay

Review of the monthly payrolls for the year under review revealed instances where some employees of the County Executive received net salaries which were less than one third of the basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of all deductions made by an employer from the wages of his employee at any one time, shall not exceed two-thirds of such wages.

4.2 Anomalies in Contractual and Temporary Employees

Review of personnel records revealed that the County Executive had sixty (60) contractual employees, for a period exceeding six (6) months, thirty (30) of whom were above the age of sixty (60) years. There was no evidence that there was an emergency and/or they were experts to warrant their employment on contractual terms beyond 60 years. This was contrary to the Public Service Commission Circular Ref: PSC/GEN/10/III/(28) dated 5 April, 2019 on a framework for short-term employment in the Public Service.

Further, the County Executive engaged the services of six hundred and sixty (667) casuals out of whom 592 were engaged for twelve months without the approval of the County Public Service Board contrary to Section Part B16 of County Human Resource Manual 2013 which stipulates that Casual workers shall be engaged only on urgent short-term tasks with the approval of the County Public Service Board and that casual workers shall not be engaged for more than three months, as stipulated in the Employment Act (2007).

4.3 Employees Sharing the Same Bank Account

Review of the payroll revealed that six (6) employees were sharing three bank accounts and as a result the salaries were paid into these shared accounts. There was no documentary evidence indicating the affected officers had given authority to the County Executive to pay their salaries into these common accounts. This was contrary to Section 17. (1) of the Employment Act, 2007.

4.4 Personal Emoluments Paid Outside Integrated Personnel and Payroll Database (IPPD) System

Included in the employees cost for the year under review is an amount of Kshs.151,826,540 for salaries and allowances paid outside the Integrated Personnel and Payroll Database (IPPD), contrary to the Section 1.5.1 of the Financial Accounting Recording and Reporting manual and The National Treasury guidelines. No satisfactory explanation was given for the processing of the wages outside the IPPD system. Further, there was a risk of unauthorized payments through manual payrolls.

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

4.5 Irregular Promotions

Audit review of the payroll for the year ended 30 June 2022 revealed instances where one hundred and six (106) employees of the County Executive were promoted by between 2 to 9 job groups within a year. The basis on which on which these unusual promotions was not supported by documentary evidence such as advertisements, a list of applicants, interview minutes and a budget for the promotions . Further, no explanation was given in support of the unusual movement in job groups.

4.6 Irregular Retention of Employees Above Sixty (60) Years

The statements of receipts and payments reflect compensation of employees Kshs.2,908,416,393 as disclosed in Note 2 to the financial statements. Included in the balance is Kshs.142,182,717 paid to thirty-nine (39) employees who were still in service despite attaining the mandatory retirement age of sixty (60) years for several months based on June 2022 gross salary. Management did not provide reasons for the irregular retention of the employees beyond the mandatory retirement age.

4.7 Non-Compliance with Deduction and Remittance of Statutory Dues

Analysis of the i-Tax general ledger report obtained from the County Executive's KRA portal revealed that tax obligations totalling Kshs.2,759,678,795 comprised of Kshs.2,393,901,512 PAYE, Kshs.134,663,056 VAT and Kshs.231,114,227 Withholding Tax were outstanding as at 30 June, 2022. An employer is required to deduct PAYE from employees' salaries and wages at the prevailing rates and remit the same to KRA on or before the 9^{th} of the following month; while Section 19 (2) of the Value Added Tax Act, 2013 and Section 34 (3) of the Tax Procedures Act, 2015 specify the duration within which the other forms of taxes should be remitted.

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

5. Identification, Collection and Accounting for Own Generated Revenue

5.1 Uncollected Revenue

Own source revenue for the year under review amounted to Kshs.379,991,105 against a budgeted amount of Kshs.529,500,000 resulting to unrealized revenue of Kshs.149,508,895 or 28% of the budget. This was contrary to Regulation 63(1) of the Public Finance Management (County Governments) Regulations which requires Accounting Officers to put adequate safeguards for the prompt collection and proper accounting for, all county government revenue and other sums of moneys relating to their county departments or agencies.

5.2 Long Outstanding Property Rates

Records maintained by the County Executive revealed that outstanding property rates amounted to Kshs.20,020,184,186 as at 19 February, 2022. However, there was no evidence of the measures put in place by Management to collect the rates. This was contrary to Section 63(b) of the Public Finance Management (County Governments) Regulations, 2015 that provides that an Accounting Officer and a Receiver of Revenue are personally responsible for ensuring that adequate measures, including legal action where appropriate, are taken to obtain payment.

5.3 Spending of Own Generated Revenue at Source by County Health Facilities

Review of revenue records from various sub-county hospitals within Trans-Nzoia County established that revenue totalling Kshs.69,495,571 was collected out of which only Kshs.18,077,851 was banked resulting in expenditure at the source of Kshs.51,417,851 contrary to Regulation 63(4) of the Public Finance Management (County Governments) Regulations, 2015 which requires all sums of money collected by a Receiver of Revenue or Collector of Revenue or collected and retained by a county government entity, be paid into the designated bank accounts of the county government and shall not be used by any public officer in any manner between the time of their receipts and payment into the bank except as provided by law.

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

6. Failure to Prepare Quarterly Reports on Procurement

The Trans Nzoia County Executive did not prepare quarterly reports on the implementation of the annual procurement plan and submit them to the County Executive

Committee Member for Finance as required by Regulation 40(6) of the Public Procurement and Asset Disposal Regulations, 2020. No explanation was provided for the omission.

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

7. Contracts Not Publicized in The Public Procurement Information Portal

All the contracts awarded by the County Executive were not published and publicized in the public procurement information portal or county's website. This was contrary to Section 138(2) of the Public Procurement and Asset Disposal Act, 2015, which requires an Accounting Officer of a procuring entity to report all contract awards to the Public Procurement Regulatory Authority (PPRA). This was also contrary to Executive Order No. 2 of 2018 which requires publication of all procurement information including tender notices, contracts awarded, suppliers and their directors in Public Procurement Information Portal (PPIP).

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

8. Failure to Appoint Receiver of Revenue

The County Executive Committee Member for Finance did not appoint a Receiver of Revenue contrary to Section 157(1) of the Public Finance Management Act, 2012, which requires him to, in writing, designate persons to be responsible for collecting, receiving and accounting for such county government revenue as he may specify in their letters of designation.

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

9. Anomalies in Fuel Usage

The statement of receipts and payments reflects an expenditure of Kshs1,201,401,824 under use of goods and services which includes an amount of Kshs.10,813,721 for fuel, oil and lubricants. However, the Management made payments totalling Kshs.177,245,086 for fuel and other petroleum products to various suppliers in all its programmes. Motor vehicle work tickets were not presented to account for how the fuel, which was bought and paid for in bulk, was issued to the motor vehicles contrary to Section 160(1) of the Public Procurement and Asset Disposal Act, 2015 that requires an Accounting Officer to a procuring entity to manage its inventory, assets and stores to prevent wastage and loss, and continuing utilization of supplies.

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

10. Non-Surrender of Outstanding Imprest

The statement of assets and liabilities reflects a Nil balance in respect of outstanding imprests and advances. However, review of the IFMIS imprest register presented for audit revealed an amount of Kshs.100,150,000 transferred to County Executive of Trans Nzoia Standing Imprest Account held at Equity Bank. However, review of the bank statements for the account revealed that cash withdrawals totalling Kshs.103,620,000 were made by two officers and a manual cash book presented for audit showed that the cash was spent on hospitality costs, domestic and subsistence allowances, general office stationeries and others that should otherwise have been procured competitively as required by law.

Further, standing imprest amounting to Kshs.21,800,139 transferred to County Government of Trans-Nzoia Health Office Account No. 115028113 held at Kenya Commercial Bank were overdue and ought to have been surrendered within seven (7) days of the officers returning to their duty stations as required in Regulation 93 of the Public Finance Management (County Governments) Regulations, 2015. No justification was provided for the failure to recover the above amounts from the affected staff salaries.

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

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

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

1. Unprocedural Voiding of Payments and Payments Without Matching Purchase Orders

Analysis of the Integrated Financial Management Information System (IFMIS) revealed that two thousand, nine hundred and seventy-seven (2,977) payments with amounts totalling Kshs.1,568,032,810 were voided before the final payment stage. No explanation was provided on why payments that had already been approved by the Controller of Budget (CoB) were cancelled before the final payment process. Further, no evidence was provided to show that the cancellation of these payments was notified to the Controller of Budget.

In addition, a comparative analysis of payment details and the purchasing activity register revealed instances where payments for goods, services and works were done without corresponding purchase orders.

In the circumstances, risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control could not be confirmed.

2. Lack of an Information Technology (IT) and Continuity Policy

Review of the ICT infrastructure and documents revealed that the County Executive did not have an approved IT Strategic Committee, Strategic Recovery Plan, formal and documented emergency procedures and IT Continuity Plan despite continued use and procurement of ICT equipment and software.

In the circumstances, the effectiveness of Management's response to risks could not be confirmed.

3. Internal Audit and Risk Management

3.1 Internal Audit Reports

Review of the County Executive of Trans Nzoia for the year 2021/2022 revealed that there was no evidence of work done by the Internal Audit Unit in the year under review contrary Regulation 153(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires an internal auditor to evaluate budgetary performance, financial management, transparency and accountability mechanisms and processes and review the state of risks management, control governance and effectiveness of the financial and non-financial performance management in the county government entities.

3.2 Non-Functional Audit Committee

Although the County Executive has established an Audit Committee, the Audit Committee did not hold any meetings contrary to Regulation 172(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires the audit committee to meet at least once in every three months.

3.3 Lack of a Risk Management Policy

During the year under review, the County Executive of Trans Nzoia did not have a Risk Management Policy. This was contrary to Regulation158 1(a)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires each County Government entity to develop risk management strategies and a system of risk management strategies, which include fraud prevention mechanism; and the County Government entity develops a system of risk management and internal control that builds robust business operations.

In the absence of an effective Internal Audit Function, functional Audit Committee and a Risk Management Policy, the County Executive was not capable of identifying operational areas prone to risks and put mitigation measures against misuse or loss of public resources.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standard requires 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 overall governance.

In preparing the financial statements, Management is responsible for assessing 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 intention to dissolve 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 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 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 continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the County 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

20 April, 2023