

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF KIAMBU 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 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 Kiambu County Assembly set out on pages 1 to 39, 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 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 Kiambu County Assembly 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. Irregular Appointments

The statement of receipts and payments and Note 4 to the financial statements reflect compensation of employees amounting to Kshs.597,675,366 which includes an amount of Kshs.2,977,600 paid as salaries to eight (8) newly recruited employees. However, Management has not provide supporting documents such as human resource plans, annual comprehensive job analysis and annual recruitment plans. Further, there are no confirmed minutes of the staff advisory committee and approval of recruitment of the eight members by the County Assembly Service Board (CASB) while official appointment letters by the Clerk, authentication of their academic certificates by Kenya National Qualification Authority, job description and personal numbers, were not provided for audit review.

Further, review of the human resource records indicated existence of two positions of Deputy Clerk – Administration for which the County Assembly paid salaries of Kshs.3,546,500 and Kshs.2,088,370, respectively. However, the two (2) positions were not in the approved staff establishment for the County Assembly.

In the circumstances, the propriety and completeness of compensation of employees expenditure of Kshs.8,612,470 could not be confirmed.

2. Use of Goods and Services

The statement of receipts and payments and Note 5 to the financial statements reflect payments for goods and services balance of Kshs.597,675,366. Review of payment and other documents revealed the following:

2.1 Misclassification of Payments

The balance includes payments amounting to Kshs.6,109,122 which were charged through various account codes which were different from the budget and account codes classification provided by the National Treasury as shown below:

| Item | Amount (Kshs.) | Account Code | |
|---------------------------|---------------------------|---------------------|----------------|
| | | Charged | Correct |
| Return Air Tickets | 782,400 | 2210600 | 2210400 |
| Motor Vehicle Maintenance | 70,000 | 2211200 | 2220100 |
| Automobile Tyres | 95,600 | 2211200 | 2220100 |

| | | | |
|--|------------------|---------|---------|
| Office and General Supplies | 1,788,200 | 2211100 | 3111000 |
| Computer Personal (Laptop) | 598,392 | 2220200 | 3111000 |
| Reimbursement | 199,994 | 2220200 | 2210800 |
| Supply and Delivery of Assorted Toners | 721,305 | 2220200 | 2211100 |
| Transfer to Car and Mortgage Fund | 1,853,231 | 2210700 | 2610000 |
| Total | 6,109,122 | | |

Necessary adjustments have not been affected to correct the mis-postings.

2.2 Unsupported Payments

The balance includes expenditure amounting to Kshs.465,643,292 in respect of domestic and foreign travel, training and other operating expenses, as detailed in the table below;

| Item | Financial Statements (Kshs.) | Amounts Unsupported (Kshs.) |
|---------------------------------|---------------------------------|-----------------------------------|
| Domestic Travel and Subsistence | 265,873,265 | 177,135,900 |
| Foreign Travel and Subsistence | 78,451,119 | 51,726,128 |
| Training Expenses | 90,530,466 | 59,118,090 |
| Other Operating Expenses | 30,788,440 | 30,788,440 |
| Total | 465,643,292 | 318,768,558 |

However, supporting records in respect of payments amounting to Kshs.318,768,558 under the four items were not provided for audit.

Further, the training expenses were not supported by needs assessment reports for purposes of establishing training needs and evidence of travel. In addition, the balance on use of goods and services includes sitting allowances and expenses on hire of facilities for meetings totalling to Kshs.1,136,000 and Kshs.3,427,79 respectively incurred by the County Assembly Services Board. Similarly, the expenditure was not supported by documents.

In the circumstances, the accuracy and propriety of the expenditure on use of goods and services could not be confirmed.

3 Un-supported Cash and Cash Equivalents Balance

The statement of financial assets and liabilities reflects a balance of Kshs.329 in respect of cash and cash equivalents balance, which is held in three (3) bank accounts as disclosed in Note 13A to the financial. However, the bank reconciliation statement for the Cooperative Bank account reflects un-presented cheques amounting to Kshs.2,879,965, whose detailed

listing was not provided for audit verification while the bank reconciliation statement for the recurrent account reflects unrepresented cheques amounting to Kshs.87,108,944 out of which an amount of Kshs.119,700 were already stale. Some of the stale cheques date back to November 2021, and had not been reversed in the cash book, and no explanation was provided for the failure to reverse the stale cheques.

Further, the bank reconciliation statements for the development cash book reflected receipts in cash book not in the bank statement of Kshs.4,621,012 whose details were not provided for audit review.

In addition, there was no evidence of submission of monthly bank reconciliation statements to the National Treasury and Auditor-General, by Management contrary to regulation 90 of the Public Finance Management (County Governments) Regulations, 2015. The law provides that accounting officers shall ensure bank accounts reconciliations are completed for each bank account held by that accounting officer, every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to the County Treasury with a copy to the Auditor-General.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.329 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Kiambu 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 audit 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 summary statement of appropriation recurrent and development combined reflects receipts budget of Kshs.1,498,021,994 and actual receipts collection of Kshs.1,247,384,432 resulting in a revenue shortfall of Kshs.250,637,562 or 17% of the budget. Similarly, the County Assembly spent an amount of Kshs.247,384,103 against an approved budget of Kshs.1,498,021,994 resulting in an under-expenditure of Kshs.250,637,891 or 17% of the budget. The Management attribute the variances to the exchequer releases which were not disbursed to the County Assembly.

The underfunding and under expenditure affected the implementation of the budgeted programs during the year.

2. Pending Bills

Annex 1 and 2 to the financial statements reflects pending accounts payable and pending staff payables of Kshs.105,686,039 and Kshs.3,364,046 respectively. However, Management has not explained why the bills were not settled during the year when they occurred.

Failure to settle bills during the year to which they relate to distorts the financial statements and adversely affects the budgetary provisions for the subsequent years as they form a first charge.

3. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2022. Management has not provided progress on follow up of audit recommendations of 2019/2020 and 2020/2021 financial years, as required by the Public Sector Accounting Standards Board.

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. Non-Compliance with Fiscal Responsibility Principles on Wage Bill

The statement of receipts and payments reflects that the County Assembly spent Kshs.591,499,585 on compensation of employees, representing 48% of the total revenue of Kshs.1,231,708,024. This is contrary to provisions of Regulation 25 of the Public Finance Management (County Governments) Regulations, 2015 which limits for expenditure on wages and benefits to not more than 35% of the total revenue for the year.

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

2. Non-Compliance with Law on Ethnic Composition

Review of the human resource records revealed that, the County Assembly had eighty-eight (88) staff members as at 30 June, 2022 out of whom, sixty-nine (69) or 78% of the staff members were from the dominant community in the County. This is contrary to the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008

which states that all public officers shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

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

3. Stalled Projects

Note 1 on other important disclosures reflects pending accounts payable balance of Kshs.105,686,039 which includes construction of buildings totalling to Kshs.11,702,157 out of which, an amount of Kshs.9,661,240 was in respect of unpaid certificate of completion on construction of County Assembly Archives and Members Welfare Facility. Review of procurement records indicate that the project was awarded to a local company on 28 May, 2021 for a duration of thirty (30) weeks ending on 7 January, 2022 at a contract price of Kshs.43,942,230. An inspection in September, 2022 revealed that the project was about 25% completion level implying that the project had stalled. This is contrary to Regulation 50 of the Public Finance Management (County Governments) Regulations, 2015 on commitment for goods, works or services, which require Management to carry out proper budgeting as well as expenditure commitment for any particular project, to avoid unpaid and stalled works.

In the circumstances, there is no value for money in the delayed project for the benefit the public.

4. Avoidable Interest Charge on Delayed Payments

The statement of receipts and payments indicate that an amount of Kshs.597,499,585 was incurred in respect of use of goods and services. Included in the payments is expenditure totalling to Kshs.567,370 in respect of interest charges on delayed payments for the proposed construction of Ward offices at Karai, Kamburu and Bibirioni. The delayed payments resulted in wasteful expenditure which could have been avoided.

In the circumstances, value for money on interest charged could not be confirmed.

5. Overpayment for Partitioning Works of Nominated MCAs' Offices

The statement of receipts and payments reflects an expenditure of Kshs.23,057,542 in respect of acquisition of assets, which includes an amount of Kshs.2,175,031 paid in the year under review to a local contractor for partition works at a building in town meant for nominated Members of the County Assembly. As reported previously, the contractor was paid Kshs.10,995,168 for the works of partitioning two floors at the building. However, the contract sum was Kshs.8,954,250 resulting to an overpayment of Kshs.2,040,918 which has not been recovered.

In the circumstances, value for money on the expenditure of Kshs.2,040,918 could not be ascertained.

6. Irregular Use of Framework Contracting

The statement of receipts and payments indicates that an amount of Kshs.597,499,585 was paid in respect of use of goods and services. Included in the payments is expenditure totalling to Kshs.55,071,420 in respect of hospitality supplies and services which was mainly paid to two (2) hotels for conference facilities procured through framework contracts.

Review of the supporting documents revealed that the County Assembly entered into a framework contract for conference facilities with seven (7) establishments. However, out of the seven contracts, one contract was not signed by the company directors while another did not indicate amount or rates for the service. The procurement was therefore based on five bids instead of the required minimum of seven contrary to Section 114 (1)(c) of the Public Procurement and Asset Disposal Act, 2015 which require that a minimum of seven (7) alternative vendors are included for each category.

Further, an amount of Kshs.3,931,430 was incurred on purchase of air tickets. However, only four (4) firms were contracted to provide the services instead of the minimum seven (7), contrary to Section 114 (3) of the Public Procurement and Asset Disposal Act, 2015.

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

7. Irregular Subscriptions

The statement of receipts and payments reflects an expenditure of Kshs.597,675,366 on use of goods and services which as disclosed in Note 5 to the financial statements includes an amount of Kshs.30,788,440 in respect of others operating expenses. The balance includes amounts of Kshs.750,000 and Kshs.500,000 in respect to subscription fees made to the Society of Clerks-at-the-Table (SOCATT) and to the County Assembly Forum (CAF) respectively. However, the payments were made without budget allocation and requisite in line with Regulation 31(a) and 50(2) of the Public Finance Management (county Governments) Regulations, 2015 which required that all expenditure shall be entered into the budget and shall be committed only against allocation and commitments approval.

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

8. Unsupported Legal Fees

Included in use of goods and services is expenditure totalling to Kshs.3,992,510 in respect of legal fees for services offered to the County Assembly on six (6) petitions involving the County Assembly. The County Assembly has twenty (20) active law suits where various law firms are engaged to represent the County Assembly. However, the service level agreements, the itemised instructions made to the lawyers on the services required and other documents such as copies of judgements summary where applicable and evidence that the legal firms actually represented County Assembly, dates of commencement of the lawsuits and progress reports of the cases and certified valuation certificates on which the legal fees were based, were not provided for audit verification. In addition, opinion and no objection for engagement of the private legal firms by the

Attorney General who is the principal legal advisor of the County Assembly, was not provided for audit verification.

In the circumstances, the regularity and completeness of the legal fees of Kshs.3,992,510 could not be confirmed.

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 overall governance were not effective.

Basis for Conclusion

1. Lack of Strategic, Disaster Recovery and IT Strategic Plans

During the year under review, the County Assembly had not developed an organizational strategic plan. In addition, Management has not developed a Disaster Recovery Plan and IT Strategic Plan to develop risk management strategies, which include fraud prevention mechanism and a system of risk management and internal control which builds robust business operations.

In the circumstances, the effectiveness of the internal controls and risk management of the County Assembly could not be ascertained.

2. Summary of Non-Current Assets

Annex 4 to the financial statements reflects summary of non-current asset register which indicate that the County Assembly had various assets totalling to Kshs.629,135,036. However, detailed listing and analysis, ownership documents and other supporting documentation were not provided for audit verification.

In the circumstances, the existence of a proper control systems for assets and preventative mechanisms to eliminate theft, security threats, losses, wastage and misuse and ensuring that movement and conditions of the assets can be tracked could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether 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 the County Assembly's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to dissolve the County Assembly or to cease operations.

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

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

Those charged with governance are responsible for overseeing the County Assembly's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and 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 Assembly's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date

of my audit report. However, future events or conditions may cause the County Assembly to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the County Assembly to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

20 April, 2023