

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF KISII 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 the County Assembly of Kisii set out on pages 1 to 52, which comprise of 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 effects of the matter 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 Assembly of Kisii 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

Unexplained Voided Transactions

Review of the Integrated Financial Management Information System (IFMIS) payments indicated that nine hundred and ninety-nine (999) transactions amounting Kshs.179,292,886 which had been approved by the Controller of Budget, were voided during the year under review. Management has attributed voiding of these transactions to lack of funds to pay and an error in one of the payments request batches. However, no evidence was provided to show that the voidable transactions were paid in the financial 2022/2023.

In the circumstances, the accuracy and completeness of the financial statements 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 Kisii 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 summary statement of appropriation: recurrent and development reflects budgeted receipts of Kshs.1,101,585,582 and actual receipts of Kshs.960,962,827, resulting to a budget shortfall of Kshs.140,622,755 (or 13%) of the budget. Similarly, the Assembly spent Kshs.960,968,829 against an approved budget of Kshs.1,101,585,582, resulting to an under-expenditure of Kshs.140,616,753 (or 13%) of the budget.

In circumstances, the underfunding and under-expenditure could have adversely affected provision of services.

2.0 Unresolved Prior Year Matters

The Public Sector Accounting Standard Board (PSASB) financial reporting template issued in June, 2021 stipulates that the Management should reflect a progress on follow up on auditor's recommendations indicating issues raised by the auditor, status and timeframe when the issues are expected to be resolved. However, Note 16 on other disclosures to the financial statements shows that seven (7) issues raised by the Auditor General in the report for 2020/2021 had been resolved. However, Management did not provide supporting documents to prove the status. No reason was given for the omission.

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 Irregular Recruitment of Ward Employees

Review of the Assembly's personnel records revealed that during the year under review, Members of the County Assembly(MCAs)had directly employed sixteen (16) Ward staff without involving Management, contrary to Section 25(1)(a) of the County Assembly Service Act, 2017 which provides that Management is responsible for the appointment and confirmation in appointment of officers and other staff.

In the circumstances, Members of the County Assembly were in breach of the law.

2.0 Irregular Payments to Interdicted Employees

Review of personnel and payment records revealed that the Assembly had six (6) employees who were interdicted between 4 August, 2021 and 25 April, 2022, pending investigations but continued to draw full basic salaries up to the time of audit, contrary to the Paragraph D33 of the Terms and Conditions of Service of the County Assembly of Kisii Human Resource Manual, 2021, which requires an interdicted officer to receive half basic salary, full house allowance and medical benefits, while other benefits be withheld. In the circumstance, Management was in breach of the Terms and Conditions of Service of the Assembly.

3.0 Failure to Observe One-Third Rule in Employment

Review of the Assembly's staff establishment and employment records for the year under review revealed that the Assembly had four hundred and twenty-seven (427) employees. However, out of this number, four hundred and nineteen (419) employees or 98% were from the dominant ethnic community in the County, while only six (6) employees or 2% were from the other ethnic communities, contrary to the provisions of Section 65(1)(e) of the County Government Act, 2012 which state that there is need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county;

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

4.0 Non-Compliance with One Third Basic Salary Rule

Review of the payroll for the month June 2022 revealed that the Assembly made deductions on the basic salaries of fifteen (15) employees in excess of two-thirds of their basic salaries, contrary to Section 19(3) of the Employment Act, 2007, which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed

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

5.0 Irregular Payment of Subscription Fees

The statement of receipts and payments reflects expenditure on use of goods and services totalling Kshs.285,763,173 which includes an amount of Kshs.27,331,024 in respect of other operating expenses. Included in this balance is an amount of Kshs1,500,000 paid as subscription fees to the Society of Clerks-At-The-Table in Kenyan Legislatures ((SOCATT (K)). However, acknowledgement receipt of the subscription fees was not provided for audit review. Further, the subscription was not based on any law.

In the circumstances, the regularity of the expenditure of Kshs.1,500,000 could not be confirmed.

6.0 Unutilized Buildings

The statement of receipts and payments and Note 10 to the financial statements reflects acquisition of assets balance of Kshs.67,267,587. Included in the balance is an amount of Kshs.63,640,018 incurred on extension of the library, ICT Centre, Procurement Offices and Members of the County Assembly Offices. According to the tender documents , the contract was awarded to a construction company at a contract sum of Kshs.195,000,000 for a contract period of about thirty (30) days from 08 January, 2019 to 30 June, 2021. Audit inspection of the works on 12 October, 2022 revealed that the project was complete. However, the final completion certificate and hand over minutes were not provided for audit review.

Further, review of records revealed that the contract for proposed renovation, furnishing and alteration to County Assembly of Kisii Chambers including installation of video and audio equipment was awarded to a company at a contract sum of Kshs.39,997,968 . The contract was to be completed by 30 June, 2022 and the contractor had been cumulatively paid an amount of Kshs.34,613,217. However, physical verification of the works on 12 October, 2022 revealed that the works had been completed but the final certificate of completion and hand over minutes were not provided for audit review.

In the circumstances, value for money on the expenditure of Kshs.98,253,235 on the two (2) projects 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

Non-Functional Audit Committee

Information provided indicated that the term of the Assembly Committee expired in December, 2021 and had not been renewed as at the time of audit in June, 2022. Further, before the expiry of its term, the Audit Committee had been non-functional as it failed to approve Internal Audit charter, audit plans and programs and to discuss the audit reports of both internal and external auditors as required by Regulation 168 of the Public Finance Management (County Governments) Regulations, 2015.

In the circumstances, the County Assembly had weak internal controls with respect to oversight of its activities.

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 controls, risk management and overall governance

were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and governance.

In preparing the financial statements, the Management is responsible for assessing the Assembly'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 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 follow the authorities which govern them, and that public resources are applied in an effective way.

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

Auditor-General's Responsibilities for the Audit

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

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

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal controls that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal controls components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the Assembly'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 controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by Management.
- Conclude on the appropriateness of 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 Assembly's ability 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 Assembly 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 Assembly to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

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

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



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

06 April, 2023