

# REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF LAMU FOR THE YEAR ENDED 30 JUNE, 2022

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## 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 Lamu set out on pages 1 to 20, 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 County Assembly of Lamu as at 30 June, 2022 and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Cash Basis) and comply with the County Government Act, 2012 and Public Finance Management Act, 2012.

## Basis for Qualified Opinion

### 1. Inaccuracies in the Financial Statements

Analysis of the Integrated Financial Management System (IFMIS) trial balance and balances in the ledgers supporting the financial statements revealed that the two sets of documents had various variances its expenditure items as detailed below:

Account Description	Trial Balance (Kshs)	Ledger Amount (Kshs)	Variance (Kshs)
Utilities & Electricity	1,141,079	1,220,779	(79,700)
Domestic Subsistence	54,337,795	54,289,180	48,615
Foreign Travel	37,216,125	38,403,768	(1,187,643)
Advertising and Printing	1,392,760	1,382,460	10,300
Training Expenses	20,914,059	22,793,040	(1,878,981)
Hospitality	6,326,970	5,977,704	349,266
Office and General Supplies	2,377,500	2,400,000	(2,500)
Other operating expenses	2,487,915	2,490,255	(2,340)
	<b>126,194,203</b>	<b>128,957,186</b>	<b>(2,762,983)</b>

In the circumstances, the accuracy and completeness of the above balances in the financial statements could not be confirmed.

### 2. Unsupported Domestic Travel and Subsistence Allowances

Included in use of goods and services amount of Kshs.155,543,398 is domestic travel and subsistence balance of Kshs.54,289,180 as disclosed in Note 3 to the financial statements. Examination of records revealed the following unsatisfactory matters:

- i. Fifteen (15) officers of the Assembly were each paid imprests of over Kshs.2,000,000, all totalling to Kshs.57,326,524 to attend workshops, training and other official duties outside the County. In addition, four (4) officers were paid over Kshs.5,000,000 each during the year under review. However, the breakdown of these payments including their purposes were not provided for audit review.
- ii. A local travel Company was paid Kshs.1,654,000 for processing of travel documents and ticketing but the details of the procurement process for this company were not availed for audit review.

In the circumstances, the validity, probity and completeness of the domestic travel and subsistence expenditure amounting to Kshs.54,289,180 could not be confirmed.

### **3. Unsupported Payments on Staff Car Loan and Mortgage**

The statement of financial assets and liabilities for the year ended 30 June, 2022 reflects a balance of Kshs.16,889,980 for cash and cash equivalents as disclosed in Note in Note 6A to the financial statements. Included in the balance is an amount of Kshs.13,399,995 held at the Gulf African Bank (Account No.0570057001) in respect of County Assembly car loan and mortgage scheme. Audit review revealed that the County Assembly established a staff car loan and mortgage scheme through Gazette Notice Number 7 of 12 May, 2015 and signed a Memorandum of Understanding (MOU) with Gulf African Bank on 5 March, 2016.

The Memorandum stipulated that the Assembly was to deposit Kshs.100,000,000 which the bank would use to issue car loans and mortgage to the eligible members of staff. Upon execution of the MOU, the Assembly transferred Kshs.40,000,000 as the first tranche to the Bank and the remaining Kshs.60,000,000 was to be deposited upon utilization of the first tranche. Thereafter, the County Assembly transferred Kshs.26,600,000 from the Car loan and Mortgage account during the 2020/2021 financial year as transport facilitation allowance (car grants) to the Members of County Assembly (MCAs). However, Management did not provide sufficient appropriate documentation to support utilization of the initial deposit of Kshs.40,000,000 transferred to the car loan and mortgage account.

In the circumstances, the accuracy and completeness of transfers of Kshs.40,000,000 to the staff car loan and mortgage account 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 Lamu 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 totaling to Kshs.578,000,000 and Kshs.346,897,160 respectively resulting in an underfunding of Kshs.231,102,840 or 40% of the budgeted receipts. Similarly, the statement reflects expenditure budget and actual comparable of Kshs.346,897,160 and Kshs.345,588,701 respectively resulting in budget underutilization of Kshs.308,459 or 0.4%.

The underfunding of the budget may affect implementation of planned programs and activities to the detriment of the citizens of Lamu. There is need, therefore, for the

Management to be pro-active in engaging the responsible offices including the Treasury and County Government for the release of the full amount of the budgeted amount.

## 2. Project Implementation Status

During the year under review, the County Assembly of Lamu had budgeted to implement ten (10) projects amounting to Kshs.160,000,000 under development budget vote. The County Assembly received receipts of Kshs.15,073,820 as the total development vote from the County Executive. However, it was noted that seven (7) out of the ten (10) projects with budgeted amount of Kshs.144,000,000 were not implemented.

In the circumstances, planned projects were not implemented because of inadequate funding and this may negatively impact on the implementation of intended projects for the benefits of the residents of Lamu.

## 3. Late Exchequer Releases

During the year under review, the County Assembly received exchequer releases totaling to Kshs.346,897,160 from the County Treasury as disclosed in Note 1 to the financial statements. However, included in this amount are late disbursements totaling to Kshs.35,753,670 received in the month of June, 2022 as detailed below: -

<b>Vote</b>	<b>Date</b>	<b>Reference</b>	<b>Amount (Kshs)</b>
Recurrent	16 June, 2022	FT22167VR349	2,122,400
Recurrent	16 June, 2022	FT22167HPJVX	11,655,600
Recurrent	16 June, 2022	FT22167Q57DQ	12,175,800
Development	29 June,2022	FT221804V8KN	4,893,100
Development	29 June,2022	FT22180PGLNZ	4,906,770
<b>Total</b>			<b>35,753,670</b>

Failure by the National Treasury to release money on time may have negatively impacted on service delivery by the Assembly.

## 4. Unresolved Prior Year Matters

In the audit of the previous year, several issues were raised under report on financial statements, report on Lawfulness and Effectiveness in Use of Public Resources and report in Effectiveness of Internal Controls, Risk management and Governance. However, the Management did not resolve the issues as at 30 June, 2022.

## 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. Nugatory Other Operating Expenditure**

The statement of receipts and payments reflects use of goods and services balance of Kshs.162,584,403 as disclosed in Note 3 to the financial statements, 2022. Included in the balance is an amount of Kshs.2,490,255 for other operating expenses out of which the County Assembly incurred an expenditure of Kshs.2,250,000 on subscription fees to County Assembly Forum and Society of Clerks. However, the payments lacked supporting policy guidelines by the Assembly, thus making the payment nugatory. It was further noted that out of the payment of Kshs.2,250,000, an amount of Kshs.750,000 was not supported by official acknowledgement.

In the circumstances, it was not possible to determine if the expenditure for subscriptions to forum and society of Kshs.2,250,000 for the year ended 30 June, 2022 was a proper charge to public funds.

### **2. Lack of Diversity Staff Ethnicity**

The Integrated Personnel and Payroll Database (IPPD) payroll for the month of June, 2022 revealed that the dominant ethnic community in the County represented fifty-five percent (55%) of the total County Assembly employees. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

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.

### **3. Non-Submission of the Lamu Car Loan and Mortgage Fund for Audit**

Section 47(1) of the Public Audit Act, 2015 requires public entities to submit their financial statements to the Auditor General three (3) months after the closure of the fiscal year. The Assembly operates a Car Loan and Mortgage Fund but it has failed to prepare and submit its financial statements for audit as per the requirements of the law.

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

# 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. Failure to Establish an Internal Audit Function**

During the year under review, the County Assembly operated without an established internal audit department, contrary to Section 155 of the Public Financial Management Act, 2012 which states that a County Government entity shall ensure that it complies with the Act and has appropriate arrangements for conducting internal audit.

In the circumstances, the Management can easily override on internal controls and in such instances, cases of fraud and errors may not be detected or corrected in time.

### **2. Failure to Constitute an Audit Committee**

During the year under review, the County Assembly had not constituted an Auditee Committee to oversee its governance mechanisms and promote transparency and accountability in the management of its resources.

In the circumstances, it was not possible to confirm existence of effective overall governance of the County Assembly.

### **3. Lack of an Updated Fixed Asset Register**

Annex 2 of the financial statements for the year ended 30 June, 2022 reflects County Assembly assets totaling to Kshs.601,072,040 as at 30 June, 2022. It was noted that the County Assembly maintained a fixed assets register but assets totaling to Kshs.12,387,000 were not tagged and thus not possible to compare the fixed assets register against the physical assets. Also, included in the summary of assets register is the historical costs of the Assembly chambers amounting to Kshs.250,760,696. However, the County Assembly did not disclose the cost of the land where the Assembly is constructed, neither did they provide ownership documents which includes the title deed for the land.

In the circumstances, ownership of the County Assembly building 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 governance.

In preparing the financial statements, management is responsible for assessing the County Assembly's ability to continue sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management either intends to cease operations of County Assembly.

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

## **Auditor-General's Responsibilities for the Audit**

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

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective

way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

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

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

**05 April, 2023**