

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

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in use of public resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Machakos set out on pages 1 to 42, 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 -recurrent and development combined 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 Machakos 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 and the County Governments Act, 2012.

Basis for Qualified Opinion

1. Variances Between Financial Statements and Integrated Financial Management Information System (IFMIS) Ledger

The statement of receipts and payments reflects total expenditure of Kshs.1,060,696,712. However, review of the financial statements presented for audit by the County Assembly against the Integrated Financial Management Information System (IFMIS) ledger payment details for the year under review revealed discrepancies in use of goods and services, acquisition of assets and gratuity as detailed below;

Component	Financial Statement (Kshs.)	IFMIS Balance (Kshs.)	Variances (Kshs.)
Use of goods and services	430,281,383	398,240,543	32,040,840
Acquisition of assets	97,949,037	86,466,840	11,482,197
Gratuity	37,570,656	38,204,197	(634,141)

In the circumstances, the accuracy and completeness of the expenditure amounting to Kshs.1,060,696,712 reported in the financial statements for the year ended 30 June, 2022 could not be confirmed.

2. Unsupported Expenditure under Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 5 to the financial statements effects use of goods and services expenditure amounting to Kshs.430,281,383. The amount includes Kshs.20,266,863, Kshs.5,410,800, and Kshs.17,777,528 relating to hospitality supplies and services, other operating expenses and training expenses respectively. However, expenditure amounting to Kshs.3,546,965, Kshs.1,094,420 and Kshs.588,600 for the three items respectively were not supported. In the circumstances, the validity and regularity of the expenditure amounting to Kshs.430,281,383 could not be confirmed.

3. Misstatement in Exchequer Receipts

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects Kshs.1,048,995,897 in respect of exchequer releases. However, included in this amount were receipts totalling Kshs.31,164,190 received in July, 2022

and therefore outside the reporting period contrary to Section 97(1) of the Public Finance Management County Government Regulations, 2015.

In the circumstances, the fair statement of the exchequer releases of Kshs.1,048,995,897 could not be confirmed.

4. Un-Reconciled P.A.Y.E Returns

The statement of receipts and payments reflects Kshs. 454,889,136 on compensation of employees which includes Kshs. 411,720,115 being payments of salaries and wages to Machakos County Assembly members and staff. Review of the Pay as You Earn (P.A.Y.E) filed return acknowledgement receipts against relevant payment vouchers revealed certain discrepancies. In the months of July, August, November, December and January 2021, there were differences between what was paid as per the payment vouchers and what was filed as returns as shown below;

Month	P.A.Y.E AS Paid Kshs.	P.A.Y.E Filed for the Period Kshs.	Variance Kshs.
July, 2021	9,897,063	9,897,963	(900)
August, 2021	10,720,525	9,799,413	921,112
November, 2021	7,921,056	9,496,717	(1,575,661)
December, 2021	7,058,846	7,015,768	43,078
January, 2022	7,090,743	6,931,968	158,775

In the circumstances, the accuracy and completeness of the total PAYE amount of Kshs.7,090,743 could not be confirmed.

5. Expenditure without Budgetary Provision.

The statement of receipts and payments reflects use of goods and services amount of Kshs.430,281,383, out of which Kshs.222,601,017 as disclosed in note 5 to the financial statements relates to domestic travel and subsistence. Review of the approved budget for domestic travel and subsistence provided by the Assembly indicates a total amount of Kshs.218,820,470 resulting to an over-expenditure of Kshs.3,780,547.00 without budgetary provision.

In the circumstances, the regularity of the reported domestic travel and subsistence amount of Kshs.222,607,017 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Machakos County Assembly 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 recurrent and development combined reflects final receipts budget and actual on comparable basis of amounting to Kshs.1,364,502,604 and Kshs.1,066,195,897 respectively resulting to an under-funding of Kshs.298,306,707 (or 22 %) of the approved budget. Similarly, the County Assembly expended Kshs.1,060,696,712 against an approved budget of Kshs.1,364,502,604 resulting to an under-expenditure of Kshs.303,805,892 (or 22 %) of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

2. Pending Bills

Note 1 on other disclosures to the financial statements reflect Nil balance in respect of pending accounts payable. However, Annex 1 to the financial statements on budget analysis of pending accounts payable indicates that the County Assembly had pending bills amounting to Kshs.99,255,368 which included bills totalling Kshs.55,360,351 carried forward from 2020/2021 financial year. Further, Management did not explain why the bills were not settled during the year they occurred or formed the first charge during the year under review.

The County Assembly is at risk of incurring significant interest costs and penalties with their continued delay in settling suppliers and contractors bills.

2. Unresolved Prior Year Matters

In the audit report for the previous year several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in the Use of Public Resources. However, the Management has not resolved the issues or provided an explanation for the delay in resolving the prior year audit issues.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Non-Compliance with the One-Third of Basic Salary Rule

During the year ended 30 June, 2022, six (6) employees earned a net salary of less than A third (1/3) of the basic salary contrary to section 19 (3) of the Employment Act, 2007 and the County Assembly Human Resources Manual ,2015.

In the circumstances, the County Assembly contravened Section 19 (3) of the Employment Act, 2007 and the County Assembly Human Resource Manual, 2015, which may expose the staff to pecuniary embarrassment.

2. Irregular Inter Entity Borrowing

Note 3 to the financial statements reflects other receipts totaling Kshs.17,200,000. The receipts relate to funds borrowed from the Housing Fund Account at KCB Bank by the County Assembly over the years and funds borrowed from the severance pay account at Family Bank. However, inter-entity borrowing is contrary to Regulation 71 (4) of the Public Finance Management (County Governments) Regulations, 2015 which prohibits a County Government entity from giving another County Government entity cash donation to augment the budgetary resources of designated departments.

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

3. Delay in Completion of Projects.

The statement of receipts and payments and Note10 to the financial statements reflects acquisition of assets of Kshs.97,949,037. The expenditure includes construction of buildings of Kshs.75,731,514 which further includes an amount of Kshs.23,702,775 related to the construction of the Speaker's residence at a contract sum of Kshs.33,609,129. Review of other contractual documents revealed that it was to commence on 29 June, 2021 and to be completed on 2 December, 2021. However, the project was extended four (4) times and a revised completion date of 28 July, 2022 granted.

A site visit on 28 July, 2022 revealed that the project is 85% complete and no evidence of further extension had been requested by the contractor. No explanation was provided for the delay in completion of the project.

In the circumstances, the residents of Machakos have been denied the benefits that would accrue from the project.

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. I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

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 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 overall governance.

In preparing the financial statements, Management is responsible for assessing the ability of the County Assembly to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the going concern basis of accounting unless the County Government is aware of the intention to dissolve the County Assembly or 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 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 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 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 County Assembly 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 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 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 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 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

17 February, 2023