

# **REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF MARSABIT 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 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 County Assembly of Marsabit set out on pages 1 to 39, 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 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 County Assembly of Marsabit 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 Government Act, 2012.

## **Basis for Qualified Opinion**

### **1.0 Long Outstanding Unpresented Cheques**

The statement of financial assets and liabilities together with Note 13 to the financial statements reflects Kshs.2,668 on cash and cash equivalents which includes Nil balance in respect to a commercial bank account as at 30 June, 2022. However, review of the bank reconciliation statements for the same account reflects unpresented cheques totalling Kshs.17,856,000 which were payments dating back to the closure of the previous financial year and which became stale in the course of the financial year under review. New cheques replacing the stale ones were issued but did not clear as at 30 June, 2022.

Although Management explained that they are gratuity expenses awaiting the approval of the County Public Service Board, no evidence was provided to demonstrate measures the County Assembly is taking to have the Board approve the payments.

In the circumstance, the accuracy and completeness of the cash and cash equivalents balance of Kshs.2,668 as at 30 June, 2022 could not be confirmed.

### **2.0 Unaccounted for Domestic Travel and Subsistence Allowances.**

The statement of receipts and payments and Note 5 to the financial statements reflects Kshs.462,008,720 in respect to use of goods and services which includes an amount of Kshs.86,257,475 in respect of domestic travel and subsistence. This amount includes Kshs.8,812,300 paid as domestic travel and subsistence for various activities.

However, supporting documents including daily workshop attendance registers, trainings and retreats attended, motor vehicle work tickets or other documentary evidence to support the officer's mode of travel, back to office reports and hotel bookings and confirmation for the facilities used to hold the workshops and seminars were not provided for audit .

In the circumstances, the accuracy and completeness of the expenditure of Kshs.8,812,300 could not be confirmed.

### **3.0 Unsupported Expenditure on Hospitality Supplies and Services**

Note 5 to the financial statements on use of goods and services reflects Kshs.462,008,720 which Includes an amount of Kshs.47,674,469 in respect to hospitality, supplies and services. This expense includes Kshs.3,888,000 paid to County Assembly Public Service Board members but no supporting documents including the minutes of the

meetings, signed attendance registers and activity work plans for the year under review were provided for audit .

Further, the financial statements reflect Kshs.47,674,469 in respect to hospitality supplies and services while the total transactions in the ledger reflects Kshs.47,164,469 resulting to unexplained and unreconciled variance of Kshs.510,000.

In the circumstances, the accuracy and completeness of the Kshs.3,888,000 expenditure could not be ascertained as at 30 June 2022.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Marsabit 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 statement of comparison of budget and actual amounts reflects a final receipts budget of Kshs.1,072,935,867 and an actual receipt of Kshs.778,533,892 respectively resulting to under-funding of Kshs.294,401,975 or 27% of the budget. Similarly, the County Assembly spent Kshs.778,531,223 against an approved budget of Kshs.1,072,935,867 resulting to an under-expenditure of Kshs.294,404,644 or 27% of the budget

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

#### **2.0 Unresolved Prior Year Audit Matters**

The audit report for the previous year highlighted several issues in respect of the financial statements, lawfulness, and effectiveness in use of public resources. Although the Management has indicated that the issues have been responded to, the matters have remained unresolved as the Senate has not met to deliberate on the same.

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 Non-Preparation and Submission of Financial Statements**

The statement of receipts and payments and Note 12 to the financial statements reflects Kshs.44,162,996 in respect to other payments. The whole amount relates to funds transferred to Staff Car Loan and Mortgage Fund. Review of records revealed that the County Assembly through the Marsabit County Legislative Supplement No. 1 of 13 January, 2019 established the Marsabit County Assembly Staff Car Loan and Mortgage Scheme Fund.

Although the County Assembly transferred Kshs.44,162,996 to the Fund, the Fund did not prepare financial statements for the year ended 30 June 2022 as required by Section 167(1) of the Public Financial Management Act which states that the administrator of a county public fund established by the Constitution, an Act of Parliament or county legislation shall prepare financial statements for the Fund for each financial year in a form prescribed by the Accounting Standards Board.

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

### **2.0 Construction of The Speaker's Official Residence.**

The statement of receipts and payments and Note 5 to the financial statements reflects Kshs.462,008,720 in respect to use of goods and services which includes an amount of Kshs.12,200,000 in respect to rental of produced assets, out of which Kshs.900,000 relates to payments to the speaker as housing benefit.

Although the County Assembly budgeted to acquire land for the construction of the official residence for the speaker during the year under review, the County Assembly had not acquired the land or began the process of acquisition of the speaker's residence. The County Assembly was, therefore, behind schedule of construction of the speaker's official residence as guided by the Salaries and Remuneration Commission circular Ref. No. SRC/TS/CGOVT/3/61 dated 24 October, 2016 which provided the guidelines on prioritization of funds for construction of speaker's official residence in the 2018/2019 budget cycle and in any case not later than 30 June, 2022.

Further, the County Assembly was supposed to provide a status report on the implementation of the SRC guideline on construction of official residence of the speaker within an interval period of six months so as to enable the commission assess the compliance towards the guidelines and provide any interventions required. No evidence was provided to confirm that such reports were submitted to the Salaries and Remunerations Commission.

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

### **3.0 Irregular Payment of Special House Allowance**

Note 4 to the financial statements reflects Kshs.204,454,198 in respect to compensation of employees. The whole amount relates to basic salaries of permanent employees which includes Kshs.604,200 paid as special house allowance to thirteen(13) employees. The payments were, however, contrary to the terms and conditions of service as determined by SRC through Circular Ref. No SRC/ADM/1/13 Vol. III (126) of 10 December, 2014 that did not permit the payment of the special house allowance.

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

### **4.0 Unconfirmed Contributions to Staff Pensions Scheme**

Note 9 to the financial statements reflects Kshs.32,417,163 in respect of social security benefits. This expense includes Kshs.6,550,000 being employer contribution to Compulsory National Social Security Schemes out of which gratuity payments of Kshs.2,958,855 paid to Local Trust Provident Fund which was not supported by acknowledgement receipts from the payee contrary to Section 104(1) of the Public Finance Management (County Government) Regulation, 2015 that provides that payments voucher of public moneys shall be properly supported with appropriate authority and documentation.

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

### **5.0 Commitments of Local Service Orders Outside Allowed Date**

Note 5 to the financial statements reflects Kshs.462,008,720 in respect of use of goods and services. An amount of Kshs.46,321,371 of the expense relates to printing, advertising and information supplies & services and includes an expenditure of Kshs.3,960,000 for supply of services to Marsabit County Assembly.

However, the Local Service Orders (LSOs) for the services were committed in the Assembly's vote books on 3 June, 2022 contrary to regulation 50 (1) of the Public Finance Management Regulations, 2015 which states that all commitments for supply of goods or services shall be done not later than the 31 May each year except with the express approval of the accounting officer in writing.

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

### **6.0 Delayed Construction of Chambers for County Assembly**

As previously reported, Note 10 to the financial statements reflect Kshs.34,738,145 in respect of acquisition of assets. This component includes payment certificate number 8 of Kshs.19,371,467 in respect to the payment made for the construction of County Assembly chambers. Review of construction records revealed that the County Assembly awarded the tender to a firm at a contract sum of Kshs.344,205,660 for a period of seventy (70) weeks and the Chamber was to be completed by 28 August 2019. However, the

project was still in progress by October, 2022 almost three (3) years past the completion date.

Further, the project progress and oversight on implementation of the project could not be confirmed since the County Assembly did not provide evidence that the project management and other stakeholders including representatives of the County Assembly held site meetings to assess the implementation of the project and to confirm the metrics during the engineers visit to give valuation certificates for payments.

In the circumstances, the County Assembly did not realize value for money due to delays in completion of the project.

## **7.0 Lack of Assets Control Mechanisms**

Annex 4 to the financial statements reflects Kshs.509,544,649 in respect to total historical costs carried forward for all the non-current assets of the County Assembly of Marsabit. However, no evidence was provided, to confirm that the County Assembly has established policies and procedures on assets management as required by section 132. (1) of the Public Finance Management (County Government) Regulations, 2015 which states that the accounting officer of a county government entity shall take full responsibility and ensure that proper control systems exist for assets.

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

## **8.0 Other Grants and Transfers**

Note 8 to the financial statements on other grants and transfers reflects Kshs.750,000 in respect to membership fees, dues and subscriptions paid to the to the Society of Clerks at The Table (SOCATT). However, review of the SOCATT revealed that these bodies do not draw their mandate from the Constitution of Kenya or an Act of Parliament.

In addition, the final approved budget for the year 2021-2022 did not make a provision for the payment of these subscriptions. Therefore, the basis of the payments made to this institution is not legally supported and is contrary to Public Finance Management (County Governments) Regulations no. 105 (1) which explains that an Accounting Officer may authorize payment vouchers provided such expenditure is in respect of and within the provision of the services in a County Treasury warrant and in accordance with the law and regulations.

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

## **9.0 Unaccounted for Fuel, Oil and Lubricants**

The statement of receipts and payment and Note 5 to the financial statements reflects Kshs.462,008,720 in respect to use of goods and services which includes an amount of Kshs10,000,000 in respect to fuel, oil and lubricants out of which a total of Kshs.3,500,000 was paid to a supplier for the supply of fuel, oil and lubricants.

However, the expenditure was not supported with customer statements and duplicate copies of the detail orders issued by the County Assembly for drawing fuel contrary to Section 104(1) of the Public Finance Management (County Government) Regulation, 2015 that provides that payment voucher of public moneys shall be properly supported with appropriate authority and documentation.

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

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

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### 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 governance were not effective.

### Basis for Conclusion

#### 1.0 Staff Payment Outside Integrated Payroll and Personnel Database (IPPD)

Included in the statement of receipts and payments for the year ended 30 June, 2022 is an amount Kshs.204,454,199 in respect of compensation of employees. This includes an amount of Kshs.445,329 processed outside the Integrated Payroll and personnel Database (IPPD) during the year and paid to thirteen (13) staff members. It was not explained why Management did not pay all its employees using the IPPD contrary to Section 19(1)(d) of the Public Finance Management (County Governments) Regulations, 2015 which requires a regular review of the adequacy and integrity of the entity's internal control and management information systems including compliance with applicable Laws. Consequently, it was not possible to ascertain the accuracy of Kshs.445,329 paid through manual system which requires manual calculation that could be subject to errors.

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

#### 2.0 Lack of Risk Management Policy and Disaster Recovery Plan

During the year under review, the County Assembly did not have an approved Risk Management Policy and a disaster recovery plan. It was, further, noted that Management did not carry out a risk assessment during the year under review contrary to Section 158. (1) of the Public Finance Management (County Government) Regulations, 2015 which provides that, the accounting officer shall ensure that (a) the county government entity

develops risk management strategies, a system of risk management and internal control that builds robust business operations.

In the circumstances, failure to identify and respond to risk in order to minimize or prevent their impact 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 its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the 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 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 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**

**02 March, 2023**