

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF TRANS NZOIA 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 County Assembly of Trans Nzoia set out on pages 1 to 27, 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 Trans Nzoia 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

1.0 Variances between the Financial Statements and IFMIS Balances

The financial statements reflects use of goods and services amounts that differed with those of Integrated Financial Management Information System (IFMIS) as detailed below:

Component	Financial Statements Balance (Kshs.)	IFMIS Balance (Kshs.)	Variance (Kshs.)
Domestic Travel and Subsistence	134,341,656	15,727,982	118,613,674
Foreign Travel and Subsistence	9,280,550	7,330,540	1,950,010
Printing, Advertising and Information Supplies and Services	20,538,078	15,935,328	4,602,750
Rentals of Produced Assets	38,400,000	100,000	38,300,000
Training Expenses	7,860,712	4,567,112	3,293,600
Hospitality Supplies and Services	17,450,000	9,430,000	8,020,000
Insurance Costs	23,551,849	22,800,694	751,155
Office and General Supplies and Services	59,302,686	58,112,283	1,190,403
Other Operating Expenses	54,229,737	39,281,735	14,948,002
Routine Maintenance-Other Assets	2,031,761	1,981,761	50,000

No explanation or reconciliation was provided for the variances.

In the circumstances, the accuracy and completeness of the financial statements for the year ended 30 June, 2022 could not be confirmed.

2.0 Undisclosed Land

The summary of fixed assets register in Annex 3 to the financial statements reflects total fixed assets of Kshs.201,039,837. However, the balance excludes the value of land on which the Assembly sits and whose acreage and ownership could not be confirmed as no ownership documents were provided for audit. Further, the Assembly's asset register did not contain information on costs, asset descriptions, serial numbers, model and make for some assets contrary to Regulation 136(1) of the Public Finance Management (County Governments) Regulations, 2015 which provides that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

Consequently, the completeness and accuracy of the fixed assets balance of Kshs.201,039,837 as 30 June, 2022 could not be confirmed.

3.0 Irregular Sitting Allowances

The statement of receipts and payments reflects an expenditure of Kshs.374,389,472 under use of goods and services which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.134,341,656 in respect of domestic travel and subsistence allowances. The latter amount includes Kshs.958,500 incurred on MCAs sitting allowances in respect of multiple committee meetings held concurrently on the same date and time. Further, it was noted that several committee minutes presented for audit review were not signed and confirmed.

In the circumstances, the accuracy and validity of the MCA's sitting allowance expenditure of Kshs.958,500 for the year ended 30 June, 2022 could not be confirmed.

4.0 Unsupported Training Expenses

The statement of receipts and payments reflects an expenditure of Kshs.374,389,472 under use of goods and services which, as disclosed in Note 3 to the financial statements, includes an amount of Kshs.7,860,712 in respect of training expenses. The latter amount includes a total of Kshs.4,271,820 which was not supported by training needs assessment report and attendance registers. This is contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015, which provides that all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

Consequently, the validity and accuracy of the training expenditure of Kshs.4,271,820 for the year ended 30 June, 2022 could not be confirmed.

5.0 Overpayment for Hospitality Services

As disclosed in Note 3 to the financial statements, the expenditure of Kshs.374,389,472 under use of goods and services includes an amount of Kshs.17,450,000 in respect of hospitality supplies and services incurred on conference facilities on various dates. However, there were differences in the number of persons provided for and those who actually attended the activities resulting in overpayments amounting to Kshs.478,500. No reason was provided for paying for unrendered services.

In the circumstances, the accuracy and propriety of the hospitality supplies and services expenditure of Kshs.478,500 for the year ended 30 June, 2022 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 Trans Nzoia 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

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,048,921,665 and Kshs.772,533,455 respectively resulting into an underfunding of Kshs.276,388,210 or 26% of the budget. Similarly, the County Assembly spent Kshs.777,011,140 against an approved budget of Kshs.1,048,921,665 resulting in an under-expenditure of Kshs.271,910,525 or 26% of the budget.

The underfunding and under-expenditure is an indication of failure to implement the planned programmes for the year, thus negatively impacting on service delivery to the public.

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. Human Resource Management

1.1 Non-Adherence to Authorized Staff Establishment

Review of the IPPD generated staff establishment revealed instances where the authorized number of positions were exceeded by the actual number in position in six cadres as detailed below:

Pay Group	Code	Description	Authorized Posts	In-Posts	Variance/Over-Establishment
BA	C01AL	Assistant Secretary	2	4	-2
BA	C01AM	Assistant Secretary	1	2	-1
BA	C01LM	Personal Assistant	1	2	-1
BA	D05AR	Chief Finance Officer	0	1	-1
BA	E01BR	Deputy Chief State Counsel	0	1	-1
BA	U01AK	Principal Driver	0	1	-1

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The basis under which the vacancies were declared and filled beyond the approved staff establishments was not provided contrary to Section B. 5 (2) of the County Public Service Human Resource Manual, 2013 which requires that all vacancies must be declared in a prescribed format which must include the number of vacancies, when the vacancy occurred, whether the vacancy is within the authorized establishment and other relevant details.

Consequently, the Management is in breach of the policy.

1.2 Non-Compliance with Ethnic and Regional Distribution of Staff

Review of staff bio data revealed that the County Assembly had ninety-seven (97) members of staff as at 30 June, 2022, out whom fifty-two (52) or 54% were from the dominant ethnic community in the County. The Management therefore contravened Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment shall have more than one third of its staff from the same ethnic community.

Consequently, the Management was in breach of the law.

2. Irregular Subscription Fees

Included in the expenditure of Kshs.374,389,472 under use of goods and services is an amount of Kshs.54,229,737 in respect of other operating expenses, out of which Kshs.3,050,000 was paid to the Society of Clerks and County Assemblies Forum. However, the basis of the payments was not stated or supported by the enabling legislation that created the Society of Clerks and County Assemblies Forum for them to receive public funds. This contravenes Section 149(1)(a) of the Public Finance Management Act, 2012 which states that an Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorised.

It was therefore not possible to ascertain the propriety and value for money on the expenditure of Kshs.3,050,000 incurred on the Forum for the year ended 30 June, 2022.

3. Failure to Implement e-Procurement

Review of the records revealed that the Assembly incurred an expenditure of Kshs.374,389,472 on use of goods and services out of which Kshs.216,400,958 were not procured using e-procurement as required by Regulation 49(2) of the Public Procurement and Asset Disposal Regulations, 2020. The legislation requires that the conduct of procurement procedures for the supply of goods, works and services shall be carried out by a procuring entity using an e-procurement system which is integrated to the State Portal.

In the circumstances, the Management is 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, 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 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 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 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 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 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 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 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

28 April, 2023