REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF WAJIR 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 Wajir set out on pages 1 to 24, 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 Wajir 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. Compensation of Employees

1.1 Unsupported Members Sitting Allowances

The statement of receipts and payments as disclosed under Note 2 to the financial statements reflect compensation of employees of Kshs.445,756,532. Included in this amount is personal allowances paid as part of salaries Kshs.131,643,795 out of which an amount of Kshs.11,912,800 was in respect of Members of County Assembly sitting allowances for committee and plenary sittings. However, the payment vouchers were not supported with attendance registers for the plenary sittings and minutes of the committee sittings.

In the circumstances, the accuracy and completeness of Kshs.11,912,800 paid as sitting allowances could not be confirmed.

2. Use of Goods and Services

2.1 Over Payment of Mileage Allowances

The statement of receipts and payments and as disclosed under Note 3 to the financial statements reflect use of goods and services of Kshs.365,657,970 which includes domestic travel and subsistence allowances of Kshs.188,712,657. Included in the domestic travel and subsistence allowances is an amount of Kshs.141,229,992 in respect of mileage allowances to members of the County Assembly. Comparison distances reflected in the mileage claims with the actual distances from Wajir to their respective wards revealed that the claims were exaggerated. Analysis of the claims based on actual distances from Wajir to the respective wards as provided by the Ministry of Transport and Infrastructure, payable to the Members amounted to Kshs.38,789,176 while the actual amount paid was Kshs.141,229,992 resulting to an over payment of Kshs.102,440,816.

In the circumstance, the validity, accuracy and completeness of the Kshs.102,440,816 paid to Members of the County Assembly as mileage claims could not be confirmed.

2.2 Unsupported Legal Expenditure

The statement of receipts and payments and as disclosed under Note 3 to the financial statements reflects use of goods and services of Kshs.365,657,970. Included in the expenditure is an amount of Kshs.38,717,497 in respect of other operating expenses out of which Kshs.34,000,000 was paid as legal fees to two local law firms. Review of the payment documents provided for audit revealed that a payment of Kshs.3,000,000 to one of the law firms was not supported by fee notes. Further, one of the legal firms that was paid a total Kshs.15,000,000 was single sourced as there was no evidence of competitive bidding from the list of prequalified legal firms. This was in contravention of Section 91(1) of the Public Procurement and Assets Disposal Act, 2015 which states that open tendering shall be the preferred procurement method for procurement of goods, works and services.

In the circumstances, the accuracy and completeness of payments for legal services amounting to Kshs.18,000,000 could not be confirmed.

2.3 Cash Reimbursements - Hospitality Supplies and Services

The statement of receipts and payments reflects use of goods and services as disclosed under Note 3 of Kshs.365,657,970 which includes Kshs.33,136,061 in respect of hospitality supplies and services. Review of payment records revealed that some of the goods and services for office operations were purchased in cash by officers who later sought reimbursement of the amount spent. From a sample of documents examined, cash reimbursements to officers amounted to Kshs.6,180,000 during the year under review. The Management did not explain how the officers financed the operations of the County Assembly using their own resources.

In the circumstances, the propriety of Kshs.6,180,000 cash purchases reimbursed to staff could not be confirmed.

3. Cash and Cash Equivalents

The statement of financial assets and liabilities and as disclosed under Note 7 to the financial statements reflect bank balance Kshs.9,752. Included in this balance is Kshs.552 for the imprest standing account held at Kenya commercial bank. During the year under review, an amount of Kshs.15,782,359 was transferred from the recurrent account held at Central Bank of Kenya to the imprest standing account. Payments from this account totalling to Kshs.15,037,516 were made in respect of normal operations including domestic travel and subsistence allowance contrary to Regulation 82(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which provides that for avoidance of doubt, all County Government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash. Payments from the account were not processed through IFMIS as required.

In the circumstances the validity and completeness of payments amounting to Kshs.15,037,516 processed through standing imprest account and outside IFMIS could not be confirmed.

4. Expenditure Charged to Incorrect Vote

The statement of receipts and payments reflects use of goods and services of Kshs.365,657,970. Review of the expenditure of IFMIS vote book and payment details revealed that expenditure totalling to Kshs.119,268,634 was charged under cash vote code 6580101 in IFMIS instead of the respective votes budgeted for. This could have arisen from utilization of funds that were meant to settle specific invoices being applied on unbudgeted and unauthorized expenditures leading to accumulation of pending bills.

In the circumstances, the expenditure of Kshs.119,268,634 was not as per the budget.

5. Pending Bills

Annex 1 to the financial statements reflects pending accounts payable balance of Kshs.74,769,497 for which creditors ledger, projects files and supplier invoices were not provided for audit review. Further, detailed information including name of the supplier, date contracted, original amount, balance at the beginning, additions during the year, amount paid during the year and outstanding balance were not disclosed in the financial statements. In addition, The IFMIS Pending bills Report reflects pending bills balance of Kshs.156,690,026 while the financial statements under Annex 1 reflects Kshs.74,769,497 resulting to a variance of Kshs.81,920,529 which was not explained or reconciled.

In the circumstances, the completeness, authenticity and existence of the pending bills balance of Kshs.74,769,497 as at 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 Wajir 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

Budget Performance and Control

During the year under review, the approved budget for the Assembly was Kshs.893,341,593, out of which Kshs.853,341,593 was allocated to recurrent expenditure and Kshs.40,000,000 to development expenditure. However, the Assembly received a total of Kshs.843,071,694 for recurrent expenditure representing 94% of the total approved budget and did not receive the amount approved for development. Out of the final approved expenditure budget, the total actual expenditure during the year was Kshs.843,061,942 resulting to 94% budget absorption.

Non-disbursement of the amount budgeted for development negatively impacted on the implementation of planned development programmes of the Assembly.

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

6. Compensation of Employees

6.1 Failure to Maintain Staff Establishment

The County Assembly did not maintain a comprehensive approved staff establishment that indicates the optimal number of staff for each category, the number in post and the variance.

In the absence of an approved establishment, it was not possible to confirm whether the County Assembly was operating within optimal level of staff establishment.

6.2 Non-Compliance with Staffing Level Ceiling

Review of the County Assembly payroll for the month of June, 2022 indicated the County Assembly had a total of one hundred and ninety-four (194) employees. The Commission on Revenue Allocation recommendation through Circular Number CRA/FA/01 VOL 11 (22) dated 28 June, 2018 on County Government Recurrent Expenditure ceilings addressed to County Governors and Speakers of County Assemblies, capped the maximum number of employees of County Assemblies under group 2 under which County Assembly of Wajir falls, at one hundred (100). This implies that the County Assembly exceeded the maximum number of employees by ninety-four (94).

In the circumstances, Management was in breach of the Commission on Revenue Allocation recommendation.

6.3 Manual Payroll

Review of the County Assembly's payroll revealed that the Assembly maintained two sets of payrolls. One payroll in the Integrated Personnel and Payroll Database (IPPD) with a total of 234 employees and Members of County Assembly (MCAs) while the other was in Excel spreadsheet with a total of four (4) employees, three (3) Members of County Assembly and one (1) Board member. No satisfactory explanation was provided for maintaining a manual payroll though which salaries amounting to Kshs.16,526,211 were paid.

In the circumstances,, processing of salaries of staff and Members through manual payroll may expose the County Assembly to fraudulent payments.

6.4 Non-compliance with Law on Compensation of Employees Limit

The statement of receipts and payments for the year ended 30 June, 2021 and as reflected in Note 2 to the financial statements reflects compensation of employees of Kshs.445,756,532. This represents 53% of the total receipts for the year under review of Kshs.843,071,694. Regulation 25(1) and (b) of the Pubic Finance Management (County Governments) Regulations, 2015 provides that (a) the County Executive Committee Member with the approval of the County Assembly shall set a limit on the County Government's expenditure on wages and benefits for its public officers pursuant to Section 107(2) of the Act. (b) the limit set under paragraph (a) above, shall not exceed thirty-five (35) percent of the County Government's total revenue.

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

7. Irregular Payment of Subscription Fees

Note 3 to the financial statement reflects other operating expenses amount of Kshs.38,717,497, which includes an amount of Kshs.750,000 paid as subscription fees to Society of Clerks at the Table (SOCATT). This Organisation is not anchored in law and therefore payments made to the organisation cannot be considered as proper charge to public funds.

It was not possible to confirm whether Kshs.750,000 paid to the Society of Clerks at the Table was proper charge to public funds.

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

8. Training Expenses

The statement of receipts and payments reflects use of goods and services of Kshs.365,657,970. Included in the expenditure is an amount of Kshs.18,598,196 in respect of training expenses. However, the County Assembly did not have in place a training policy and training needs assessment was not done before the trainings.

In the circumstances, value for money for the payments for trainings amounting to Kshs.18,598,196 could not be confirmed.

9. Failure to Prepare Annual Report

The County Assembly Service Board as established by Section 12 of the County Government Act, 2012 is required by Section 36(1) of the County Assembly Services Act, 2017 to prepare an annual report of the operations of the Board. It was, however, noted that the Board did not prepare an annual report of the Board's operations.

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

10. Prior Years Audit Issues

During previous financial years, various audit issues were raised by the Auditor-General. The reports were discussed by County Public Accounts and Investment Committee of the Senate and recommendations made. However, the Management did not provide evidence of any efforts made to implement the recommendations and resolve the issues. Further, no report was provided by the Management indicating how it has addressed the audit recommendations and findings of the previous years' audits as required by Section 31(1) (a) of the Public Audit Act, 2015, which provides that within three months after Parliament or the County Assembly has debated and considered the final report of the Auditor-General and made recommendations, a state organ or a public entity that had been audited shall, as a preliminary step, submit a report on how it has addressed the recommendations and findings of the previous year's audit.

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.

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 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. Non-Functional Internal Audit Function

Review of the operations of the internal audit department revealed that the Assembly had an internal audit unit in place. However, during the year under review, the department did not prepare any report and annual plan, contrary to provisions of Section 155(2)(a) of the Public Finance Management (County Governments) Regulations, 2015, which provides that an Accounting Officer shall ensure that the organizational structure of the internal audit unit facilitates the entity to accomplish its internal audit responsibilities.

In the circumstances, the objectives of setting up the internal audit were not achieved.

2. Failure to Establish an Audit Committee

As previously reported, the County Assembly did not establish an audit committee contrary to Regulation 167(1) of the Public Finance Management (County Governments) Regulations, 2015 which requires every County Government entity to establish an Audit Committee in accordance with prescribed regulations to monitor the entity's accountability processes and control systems, and offer objective advice on issues concerning risk, control, regulatory requirements and governance of the County.

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

3. Lack of Risk Management Policy

Review of records and interviews with Management revealed that the County Assembly did not establish risk management systems. In addition, an effective reporting system that entailed hotlines, reporting centres and whistle blower facilities had not been established to support accountable and effective management of the financial and other managerial operations of the County Assembly.

In the absence of risk management policy, the Management may not identify and effectively respond to risks in order to minimize or prevent their impact.

4. Information Technology Internal Controls Weaknesses

During the year under review, the Management did not establish Information Technology (IT) strategy and IT steering committees, IT policy, disaster management and recovery policies and business continuity plan and IT continuity plan to ensure smooth running of its operations.

In view of the above internal control weaknesses, the County Assembly's Disaster Management, business recovery and continuity of the operations may not be guaranteed.

5. Summary of Fixed Assets

Annex 4 to the financial statements on summary of fixed assets reflects Kshs.84,865,921 in respect of assets owned by the County Assembly as at 30 June, 2022. However, the asset register provided for audit review did not include the land and buildings occupied by the County Assembly that was inherited from the defunct Wajir County Council. In addition, physical verification revealed that office chairs acquired at a cost of Kshs.2,700,000 during the year under review were not tagged or codded for ease of identification and tracking as required by Section 132(1) of the Public Finance Management (County Governments) Regulations, 2015.

Failure to maintain an up-to-date asset register may lead to loss of the County Assembly's assets.

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 sustain 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 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 County Assembly's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal 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 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 March, 2023