

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF NAIROBI CITY FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of County Executive of Nairobi City set out on pages 1 to 52, which comprise the statement of assets and liabilities as at 30 June, 2020, the statement of receipts and payments, statement of cash flows and summary statement of appropriation - 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, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, the financial position of the County Executive of Nairobi City as at 30 June, 2020 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 do not comply with the Public Finance Management Act, 2012 and the County Governments Act, 2012.

Basis for Adverse Opinion

1.0 Errors and Omissions in the Financial Statements

The financial statements contain the following errors and omissions:

1.0.1 Comparative Balances Brought Forward

The statement of receipts and payments does not reflect comparative balances for repayments of principal on domestic and foreign borrowing totalling Kshs.868,192,719 reflected in the audited 2018/2019 financial statements. As a result, the statement does not conform to IPSAS No.1.

In view of the discrepancy, the accuracy and completeness of the financial statements could not be confirmed.

2.0 Unconfirmed Balances

2.0.1 County Own-Generated Receipts

The statement of receipts and payments reflects county own-generated receipts totalling Kshs.8,819,040,246 as further reflected in Note 3 to the financial statements. However, the following anomalies were observed in relation to the balance:

2.0.1.1 Variance Between Financial Statements and Revenue Records

Accounting records in the Local Authorities Integrated Financial Operations Management (LAIFOMS) system used by the County Executive reflect County own-generated receipts totalling Kshs.6,069,025,224 against Kshs.8,819,040,246 reflected in the statement of receipts and payments resulting to an unreconciled variance of Kshs.2,750,015,022.

As a result, the accuracy and completeness of the County own-generated receipts balance totalling Kshs.8,819,040,246 reflected in the statement of receipts and payments could not be confirmed.

2.0.1.2 Revenue from Outdoor Advertisements

Records on outdoor advertisement licence applications and approvals for advertising activations that included billboards, wall wraps and sky signs were not provided for audit verification. As a result, it was not possible to confirm whether all revenues due from the activations were received and properly accounted for.

Further, the revised budget framework for 2019/2020 indicated that the County Executive had estimated to collect revenue totalling Kshs.1,425,000,000 from billboards and advertisements. However, records in the Finance Department indicated that only Kshs.753,996,503 was collected resulting to a revenue shortfall of Kshs.671,003,497 or 48% of the budget. Management attributed the shortfall to unsatisfactory economic conditions.

However, in view of lack of sufficient records, Management's explanation as well as the accuracy, completeness and propriety of the reported receipts could not be confirmed.

2.0.1.3 Revenues from Buildings Department

Review of records maintained by the Building Plans Department indicated that during the year under review, the Department approved 1,969 building plans with an estimated value of Kshs.117,785,052,603. Records in the Department reflected revenues totalling Kshs.425,589,758 against Kshs.456,718,816 reflected in records maintained by the Finance Department resulting to an unexplained difference of Kshs.31,129,058 between the two sets of records.

In addition, electronic records on all approved and rejected applications and building inspection and enforcement reports and registers, were not provided for audit verification. As a result, it was not possible to establish the total number of applications received and approved, or rejected in the year under review, and to match the revenue reported in the financial statements to the applications.

In addition, as similarly reported in the previous year, records maintained by the County Executive's E-Construction System used for approval of building plans were not integrated with LAIFOMS. The E-construction system only generates invoices but the respective payments are made through LAIFOMS. As a result, reliable means to confirm that all invoices generated by the system are paid and receipts were lacking.

In view of insufficient records and disclosures, the accuracy, completeness and propriety of the revenue receipts totalling Kshs.425,589,758 reported by the Building Plans Department could not be confirmed.

2.0.1.3 Rental Income

Rent collection schedules maintained on County Houses in various parts of the City other than Eastlands District revealed annual debts totalling Kshs.575,787,242 as at 30 June, 2020 owed by the respective tenants. Further, in the year under review, records at the Finance Department reflected rental income totalling Kshs.495,274,463 against Kshs.615,000,000 budgeted for, resulting in a shortfall of Kshs.119,725,537. No satisfactory reasons were provided for the failure to collect the debts, and for the revenue shortfall recorded in the year under review.

In addition, Eastland's District annual collectable rent schedules and actual collections in the year under review were not provided for audit review.

In view of these issues, the accuracy and completeness of the rental debts totalling 575,787,242 as at 30 June, 2020 and rental revenue totalling Kshs.495,274,463 for the financial year then ended could not be confirmed.

2.0.1.4 Trade and Other Revenues

Examination of revenue records indicated that the trade, industrialization, cooperative development and tourism sector collected Kshs.2,076,990,059 against Kshs.4,666,880 reported by the Weights and Measures Unit. The resulting variance totalling Kshs.2,072,323,179 was not explained.

2.0.1.5 Unbanked Revenue from Mama Lucy Kibaki Hospital

Examination of records maintained by Mama Lucy Kibaki Hospital indicated that revenue collected by the Hospital in the year under review totalled Kshs.111,376,968 whereas cash banked totalled Kshs.104,647,354. The resulting bank receipts shortfall amounting to Kshs.6,729,614 was not explained.

In view of insufficient records and disclosures, as well as omissions and discrepancies, the accuracy, completeness and propriety of the own-generated revenue balance totalling Kshs.8,819,040,246 reflected in the statement of receipts and payments could not be confirmed.

2.0.2.0 Unsupported Expenditures

The statement of receipts and payments reflects payments totalling Kshs.24,387,087,663 for the year ended 30 June, 2020. However, the following anomalies were noted in respect to the balance:

2.0.2.1 Miscellaneous Payments

Examination of payment vouchers and other records indicated that payments totalling Kshs.109,310,436 incurred on various items were not accompanied by relevant supporting documents. As a result, the occurrence, validity, accuracy and completeness of the payments could not be confirmed.

2.0.2.2 Other Operating Expenses

The statement of receipts and payments reflects other operating expenses totalling Kshs.1,690,007,666 which include payments for legal fees totalling Kshs.179,493,341. However, vital records on the expenditures including, approvals for the procurement of the legal services, records on the services rendered thereof - including the court cases or other proceedings in which the payees had acted for the County Executive - and the legal fees charged, were not provided for audit. As a result, the propriety, regularity and value for money on the payments totalling Kshs.179,493,341 reported to have been spent on legal services could not be confirmed.

2.0.2.3 Other Grants and Transfers

The statement of receipts and payments reflects payments for other grants and transfers totalling Kshs.43,103,000, as further, disclosed in Note 9 to the financial statements. The payments are denoted as emergency relief and refugee assistance - civil contingency reserves. However, a record of the authority granted for the transfers by the County Executive Committee Member for Finance was not provided for audit review. Further, bank statements and acknowledgments from the reported beneficiaries were not provided for audit review.

In the absence of relevant records, the occurrence and propriety of the transfers totalling Kshs.43,103,000 for the year ended 30 June, 2020 could not be confirmed.

2.0.3.0 Cash and Cash Equivalents

The statement of financial assets and liabilities reflects a cash equivalents balance totalling Kshs.920,449,033 as at 30 June, 2020, as further reflected in Note 13 to the financial statements. However, the following anomalies were noted in respect to the balance:

2.0.3.1 Failure to Provide Board of Survey Report and Bank Certificates

The cash and cash equivalents balance totalling Kshs.920,449,033 reflected in the statement of assets and liabilities as at 30 June, 2020 was not supported by a Board of Survey report and bank certificates for the forty-five bank accounts attributed to the balance. As a result, the accuracy and validity of the balance could not be confirmed.

In addition, bank reconciliation statements for all the 45 accounts, and confirmation certificates and bank statements for (11) eleven accounts were not provided for audit verification.

Further, thirteen (13) of the accounts had nil balances as at 30 June, 2020. In addition, balances for six (6) accounts were unchanged from those reflected at the end of the previous financial year. Five bank accounts in various commercial banks were not active. Management did not provide confirmation on the status of these accounts.

2.0.3.2 Incomplete Cashbook

The cashbook provided for audit did not reflect details of the payments on record. Further, contrary to Regulation 100 of the Public Finance Management (County Governments) Regulations, 2015, no cut-off was applied between the year under review and subsequent year.

In addition, the County Executive's Current Account operated at a commercial bank was overdrawn in the year under review by Kshs.542,465. No records were provided to confirm prior approval of the overdraft by the County Treasury as required under Section 119(4) of Public Finance Management Act, 2012.

2.0.3.3 Incorrect Bank Reconciliations

Bank reconciliation statements as at 30 June, 2020 reflected reconciling items carried forward totalling Kshs.2,157,680 from previous months. However, these were not analysed. Similarly, reconciling items in bank statements not in cash book were not analysed and dishonoured cheques were not reversed in the cashbook. In addition, balances totalling Kshs.461,400 shown in the bank reconciliation statement as at 30 June, 2019 as payments in the cashbook not yet recorded in the bank statements were in the subsequent statement for July, 2019 reflected as payments in bank statement not yet recorded in the cashbook.

2.0.3.4 Failure to Maintain Cashbook

Examination of accounting records maintained by Waithaka Technical Training College indicated that although the College received income and paid expenses in cash, it did not maintain an independent cash book for the transactions. As a result, the cash transactions were not sufficiently accounted for.

In view of these issues, the accuracy, completeness and validity of the cash and cash equivalents balance totalling Kshs.920,449,033 reflected in the statement of assets and liabilities as at 30 June, 2020 could not be confirmed.

2.0.4.0 Account Payables - Deposits and Retention

The statement of assets and liabilities as at 30 June, 2020 reflects a nil accounts payables - deposits and retentions balance. However, examination of records on sampled projects implemented by the County Executive disclosed that Management deducted retention monies on payments made to contractors, as provided for in the terms and conditions of the respective contracts. However, no explanation was provided on how the deductions were accounted for and why they were not disclosed in the financial statements.

2.0.5.0 Government Guaranteed Loans and On-Lent Water Loans

Annex 4, to the financial statements reflects other pending payables totalling Kshs.19,143,925,000 comprised of Kshs.15,328,285,000 and Kshs.3,815,640,000 government guaranteed loans and on-lent water (foreign) loans respectively. However, the respective loan agreements and other supporting documents were not provided for audit review. Further, the outstanding loan balances in the financial statements were not supported with documentary evidence. As a result, the accuracy and validity of the other payables totalling Kshs.19,143,925,000 as at 30 June, 2020 could not be confirmed.

2.0.6.0 Fund Accounts Balances

Note 13 to the financial statements reflects three Fund Accounts, namely, Bursary Fund, Trust Fund and Emergency Fund that received grant transfers totalling Kshs.57,355,069 in the year under review.

However, the Funds were not established by the County Assembly as required in Regulation 197(1) of the Public Finance Management (County Governments) Regulations, 2015 and Section 167(1) of Public Finance Management Act of 2012. Further, contrary to Section 9(1) of the Public Audit Act, 2015, Management did not submit the financial statements and bank statements and other records on the Funds to the Auditor-General for audit.

As a result, the propriety of the remittances totalling Kshs.57,355,069 shown as having been advanced to the Funds could not be confirmed.

2.0.7.0 Fixed Assets

The statement of receipts and payments reflects acquisition of assets balance totalling Kshs.1,435,028,590 for the year ended 30 June, 2020. However, the expenditure ledger reflected purchases totalling Kshs.1,425,579,636 resulting to an unexplained difference of Kshs.9,448,954.

Further, the Note indicates that payments totalling Kshs.490,050,785 out of Kshs.1,435,028,590 relate to construction of roads. However, expenditure records provided for audit indicated that payments totalling Kshs.745,651,770 were made in respect of roads works projects in the year under review. The difference totalling Kshs.255,600,985 between the balances reflected in the two sets of records was not explained by Management.

2.0.7.0.1 Lack of Ownership Documents for Hospital Land

Ownership documents for the land on which Mutuini Sub-County Hospital is located were not provided for audit. In addition, particulars on owners of the buildings located in the facility's jurisdiction were not provided for audit review. Unconfirmed reports suggested that the facility's land had been encroached upon by private parties. As a result, it was not possible to confirm valuation and ownership by the County Executive of the Mutuini Hospital's land and buildings.

In view of these discrepancies, the accuracy and completeness of the acquisition of assets balance totalling Kshs.1,435,028,590 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Executive of Nairobi City Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and 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 adverse opinion.

Emphasis of Matter

Repayment of Principal on Domestic Lending and On-Lending

Note 7.9 on other important disclosures, reflects pending accounts payable totalling Kshs.72,941,555,674 which include an outstanding loan totalling Kshs.4,449,656,189 provided by Kenya Commercial Bank.

Records on the loan indicated that it was acquired in October, 2014. However, the loan agreement and contractual documents detailing the terms and conditions of the loan were not provided for audit review.

Available records indicated that, the original loan amounting to Kshs.5,000,000,000 was secured from Equity Bank Kenya Limited by the defunct Nairobi City Council. Repayments made decreased the outstanding balance to Kshs.3,366,696,209 as at 24 March, 2014. However, records on the actual loan issued by the bank were not provided for audit and as a result, the accuracy and validity of the data could not be confirmed.

Management thereafter sought and obtained refinancing of the loan from the Kenya Commercial Bank. The loan statement issued by the bank indicated that County Executive was not repaying the loan, and as a result the outstanding balance had risen to Kshs.4,449,656,189 as at 30 June, 2020. Management has not explained why repayments for the loan were halted.

My opinion is not modified in respect of this matter.

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. I have determined that there are no key audit matters to communicate in my report.

Other Matter

Budgetary Control and Performance

1.1 Under-expenditure

The summary statement of appropriation - recurrent and development combined reflects a final expenditure budget totalling Kshs.36,981,390,888 and actual expenditure totalling Kshs.24,387,087,663 resulting in under-expenditure of Kshs.12,594,303,225 or 34% of the budget.

The significant under-absorption of the budget implied that execution of planned programmes and activities and service delivery to the residents of Nairobi in the year under review may have been constrained.

1.2 Delayed Exchequer Receipts

Examination of revenue records indicated that Recurrent Exchequer, Development Exchequer and Conditional Grants totalling Kshs.2,396,431,233 for the financial year under review were delayed and only released in the months of June, July and August, 2020 as indicated in the following table:

| Value Date | Equitable Share (Kshs.) | Compensation for User Fees Foregone (Kshs.) | KDSP (Level 1 Grant Allocation) (Kshs.) | Universal Healthcare in Devolved Governments (DANIDA) (Kshs.) | Conditional Grant for Development of Youth Polytechnics (Kshs.) | Total (Kshs.) |
|----------------|-------------------------|---|---|---|---|----------------------|
| 4 June, 2020 | | | | | 22,998,292 | 22,998,292 |
| 4 June, 2020 | | 79,423,251 | | | | 79,423,251 |
| 30 June, 2020 | | | | 17,605,000 | | 17,605,000 |
| 30 June, 2020 | 1,273,596,000 | | | | | 1,273,596,000 |
| 2 July, 2020 | | | 30,000,000 | | | 30,000,000 |
| 5 August, 2020 | 972,808,690 | | | | | 972,808,690 |
| | 2,246,404,690 | 79,423,251 | 30,000,000 | 17,605,000 | 22,998,292 | 2,396,431,233 |

Delay in release of the budgeted funds by The National Treasury in turn delayed execution of planned programmes and activities valued at Kshs.2,396,431,233 that had been expected to benefit the residents of Nairobi City.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, based on the audit procedures performed, I confirm that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Unsatisfactory Implementation of Projects

Records on implementation of projects indicated numerous unsatisfactory matters in relation to the projects under implementation by the County Executive. Among the matters noted were delays in completion, poor quality works, irregular procurements and variation of contracts.

Examination of projects status reports issued by Management revealed that several roads, public works and Ward development projects with a combined contract sum of Kshs.6,920,635,357 spread over several years had delayed, stalled or were terminated, as summarized in the following table:

| | Description | Aggregate Contract Sum (Kshs.) |
|---|---|---------------------------------------|
| 1 | Delayed Roads, Transport and Public Works | 4,676,032,701 |
| 2 | Delayed Ward Development Projects (Roads and Drainage) | 418,682,716 |
| 3 | Stalled Roads, Transport and Public Works Projects Stalled, Abandoned, Suspended Terminated | 1,825,919,940 |
| | Total | 6,920,635,357 |

No plausible explanations were provided by Management for the unsatisfactory implementation of the projects.

In their incomplete state, the projects have not yielded the benefits expected of them in spite public funds totalling Kshs.6,263,765,252 spent on their execution.

2.0 Use of Goods and Services

Examination of expenditure records on use of goods and services revealed the following anomalies:

2.01 Irregular Procurement and Delivery of Ten (10) Motor Cycles

Procurement records indicated that Management awarded a tender for supply of ten (10) motor cycles on 3 August, 2018 at a contract sum of Kshs.3,600,000. However, the same set of officers comprised the Tender Opening Committee, Tender Evaluation Committee and the Inspection and Acceptance Committee, contrary to Section 78(1)b of the Public Procurement and Asset Disposal Act, 2015.

As a result of the irregularity, the procurement process lacked adequate internal check and control.

Further, the lowest bidder at Kshs.1,950,000 was disqualified for, reportedly, not submitting tender security valid for 120 days. However, no records were provided to support the assertion. In addition, the motor vehicles were not presented for audit verification and, as a result, their supply could not be confirmed.

2.02 Irrational Costing of Solid Waste Management Contracts

Expenditure records indicated that the County Executive made payments totalling Kshs.248,893,590 to various firms for collection, transportation and disposal of solid waste in the year under review. However, examination of the records indicated that contracts for the same tasks in the same geographical zones were awarded to different firms at different payment rates. Records on procurement of the contracts were not provided for audit and as a result, the reasons for the variances could not be confirmed.

In view of the apparent lack of objectivity in pricing the contracts, value for money may not have been obtained on the expenditure totalling Kshs.248,893,590 spent on collection and transportation of solid waste.

2.03 Unapproved Over-Expenditure on Balls and Laptops

Examination of payments made on purchase of balls and laptops for the education sector indicated that local purchase orders totalling Kshs.15,318,000 were issued, whereas Authority-to-Incur-Expenditure(AIE) amounted to Kshs.9,250,000 resulting to unauthorized over-expenditure of Kshs.6,068,000. The over-expenditure was contrary to Regulation 51(1)(a) of the Public Finance Management (County Governments) Regulations, 2015 which prohibits spending or commitment of any public funds without a matching AIE.

2.04 Irregular Procurement of Medical Oxygen Supplies

Records on expenditure by the Health Department indicated that during the year under review, Mbagathi Hospital and Mama Lucy Kibaki Hospital procured medical oxygen valued at Kshs.5,436,300 and Kshs.23,770,000 respectively. The procurement was initiated through a memo from the Acting Chief Officer Health sent to all medical officers

in February, 2018. However, no records were provided for audit to confirm whether the purchase was done in a lawful, transparent, economic and effective way as required by Section 149(1) of the Public Finance Management Act, 2012.

As a result, it was not possible to confirm that the supply contracts were regular and value for money was obtained on the funds totalling Kshs.29,206,300 spent in the process.

2.05 Irregular Payments made After Transfer of Services to National Government

Expenditure records indicated that the County Executive made payments totalling Kshs.498,202,795 to various suppliers of goods and services from 25 March, 2020 to 30 June, 2020. The items paid for related to functions that were transferred to the National Government-Nairobi Metropolitan Services- in accordance with Article 3 of the Deed of Transfer of Functions published in the Kenya Gazette Notice No. 1609 of 25 February, 2020.

Consequently, the payments totalling Kshs.498,202,795 were irregular.

3.0 Irregularities in Staff Management

Examination of records on compensation of employees revealed the following irregularities:

3.0.1 High Wage Bill

The compensation of employees expenditure totalling Kshs.12,590,337,786 reflected in the financial statements was equivalent to 57% of the total revenue of the County Government for the year under review totalling Kshs.22,022,326,802. The exceedingly high rate was contrary to Regulation 25(1) of Public Financial Management Act (County Governments) Regulations, 2015 which sets the threshold for the item at 35%.

Therefore, Management breached the law by overspending on personnel emoluments. Further, overuse of limited resources in payment of personnel emoluments constrained the capacity of the County Executive to fund services and development projects beneficial to the majority of residents of the County.

3.0.2 Undisclosed County Public Service Board Operations

The audit could not confirm the nature and scope of operations carried out by the County Public Service Board in the year under review as Minutes of its Meetings and other activities were not provided for review.

In addition, it was not possible to confirm whether the Board was validly constituted and whether it had carried out its mandate as provided for in the Constitution and relevant laws.

3.0.3 Over-Expenditure on Board Expenses and Casual Workers at Pumwani Maternity Hospital

Examination of expenditure records indicated that expenditure on the Board and casual employees at Pumwani Maternity Hospital totalled Kshs.3,473,600 and Kshs.12,735,262 against budgetary allocations totalling Kshs.600,000 and Kshs.10,000,000 resulting in over-expenditure of Kshs.2,873,600 or 478% and Kshs.2,735,262 or 27% respectively. The over-expenditures contravened Regulation 53(1) of the Public Finance Management (County Governments) Regulations, 2015 which prohibits unauthorized use of funds other than for the purposes specified in the approved budget.

In addition, Gazette notices and appointment letters for the Board Members were not provided for audit review. As a result, it was not possible to confirm whether the appointments, and the board expenses totalling Kshs.3,473,600 were incurred in a lawful way.

Staffing records further indicted that the Hospital hired one hundred and twenty-three (123) casual employees in the year under review and paid them emoluments totalling Kshs.12,735,262. However, contrary to Section 37 of the Employment Act, 2007, some of the casuals were retained for continuous periods lasting for more than three months without contracts. Further, there were no records showing that needs assessments were carried out to identify understaffed units before the appointments were made.

3.0.4 Staff Shortage at Mbagathi Hospital

Records at Mbagathi Hospital indicated that the authorized establishment was five hundred and fifty (550) members of staff against four hundred and thirty-four (434) in position in the year under review. Therefore, the Hospital had a shortage of one hundred and sixteen (116) employees. The understaffing may have hindered the Hospital from providing health services in an efficient and effective way.

No plausible explanation was provided for the failure of the County Public Service Board to fill the vacancies so as to aid provision of efficient, high quality services to patients as required of the Board by Section 55(b) of the County Governments Act, 2012.

Further, review of records on casual workers indicated that the workers had worked as temporary employees for long periods with some having held their temporary positions for over 20 years. Minutes of a meeting of the Hospital's Management Committee held on 20 February, 2018 indicated that the Committee had asked Management to consider hiring the workers on permanent service.

Similarly, the Deputy Medical Superintendent at the Hospital had in November, 2018 written to the County Director of Health requesting employment of the casual workers on permanent terms, following interviews carried out one year before in July, 2017, but their status remained unchanged.

Failure to absorb the workers on permanent terms may adversely affect their morale and lower the quality of services offered at the Hospital.

3.0.5 Irregular Hire of Medial Staff at Mama Lucy Kibaki Hospital

Examination of employment records maintained at Mama Lucy Kibaki Hospital revealed an approved staff establishment of eight hundred and eight (808) staff members against five hundred nineteen (519) permanent staff resulting to a deficit of two hundred and eighty-nine (289) staff.

The shortage appeared to have hindered efficient and effective services as Management had resorted to hiring temporary workers in various departments. In the year under review, wages for casual employees totalled Kshs.49,100,736.

The wages were paid to a hundred and one (101) casuals at Kshs.16,484,266, fifty-seven (57) locum nurses at Kshs.16,482,000, eight (8) clinicians at Kshs.4,818,300, seven (7) anesthetists at Kshs.2,662,470, fifteen (15) officers for Covid-19 mitigation at Kshs.709,500 and various other medical officers at Kshs.7,944,200.

However, requisitions from the user departments and approvals for hire of the staff were not provided for audit review. As a result, the regularity of the recruitment, and suitability for the jobs assigned to staff could not be confirmed.

No plausible explanation was provided by Management for preferring casual over permanent or term workers.

3.0.6 Unremitted Statutory Deductions

Included in other pending payables totalling Kshs.62,417,338,886 as at 30 June, 2020 are statutory deductions totalling Kshs.1,532,263,571, as analysed in Annex 4 of the financial statements. The payables denote failure by Management to remit the deductions in due time as required in Regulation 22 (2) of the Public Finance Management (County Governments) Regulations, 2015.

The delays may have caused the County Executive to incur liability for fines and penalties and is detrimental to the welfare of its workers

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, because of the significance of the matters discussed in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, based on the audit procedures performed, I confirm that internal controls, risk management and governance were not effective.

1.0 Inadequate Maintenance of Records by Enforcement Department

The Compliance and Enforcement Department of the County Executive serves enforcement notices and undertakes any other enforcement action in respect to physical development. However, examination of the Department's records indicated that they were kept in registers some of which were old and mutilated and lacked backup copies. The records included; reports on arrests, court cases, notices, demolitions and complaints.

Therefore the information contained in the registers, though critical to the operations of the Department, was not maintained in a secure and efficient way.

By failing to maintain the records well, Management contravened Section 149(2)(c) of the Public Finance Management Act, 2012 which requires Accounting Officers to protect and back-up all financial and accounting records in their respective entities.

2.0 Lack of Fixed Assets Register at Mama Lucy Kibaki Hospital

Examination of records at Mama Lucy Kibaki Hospital revealed that the hospital procured assets totalling Kshs.4,786,181 in the year under review. However, Management did not maintain a fixed assets register on assets owned by the Hospital. Further, the assets were not coded or tagged and therefore their location and custody could not be tracked from records.

Failure to maintain the assets register contravened Section 159(2) of the Public Procurement and Asset Disposal Act, 2015 which requires each Accounting Officer of a procuring entity to keep record of goods, works and services received in an inventory of the entity. In addition, the assets were at risk of misplacement or loss.

The audit was conducted in accordance with ISSAI 2315 and 2330. The standards require that I plan and perform the audit to obtain assurance about whether the 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.

In preparing the financial statements, Management is responsible for assessing the County Executive'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 Executive. 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 money is applied in an effective manner.

Those charged with governance are responsible for overseeing the County Executive's financial reporting process, reviewing the effectiveness of how the entity 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 review is planned and performed to express a conclusion with limited assurance as to 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 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review 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 Executive's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism 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 Executive'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 Executive 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 Executive 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

24 December, 2021