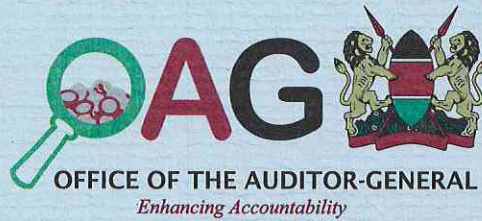


REPUBLIC OF KENYA

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HEADQUARTERS
Anniversary Towers
Monrovia Street
P.O. Box 30084-00100
NAIROBI

OAG/SRRO/2022-2023-2-02-0036-00 (3)

15 December, 2023

Isaac K. Kitur,
The Clerk,
Bomet County Assembly,
P. O. Box 590 – 20400,
BOMET – KENYA.

DDF
Agent
20/12



REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF BOMET FOR THE YEAR ENDED 30 JUNE, 2023

Your response dated 20 November, 2023 to the management letter Ref: OAG/SRRO/2022-2023-2-02-0036 dated 10 November, 2023 in respect of the financial year ended 30 June, 2023 refers.

The additional information and evidence provided in the response has been examined and issues that have not been satisfactorily explained and (or) supported are now included in the Draft Audit Report.

Kindly submit your written response within **three** days of receipt of this Report for further examination. If no comments are received within this period, it will be taken that you agree with the facts as stated and the Report will be processed as it is for issue.

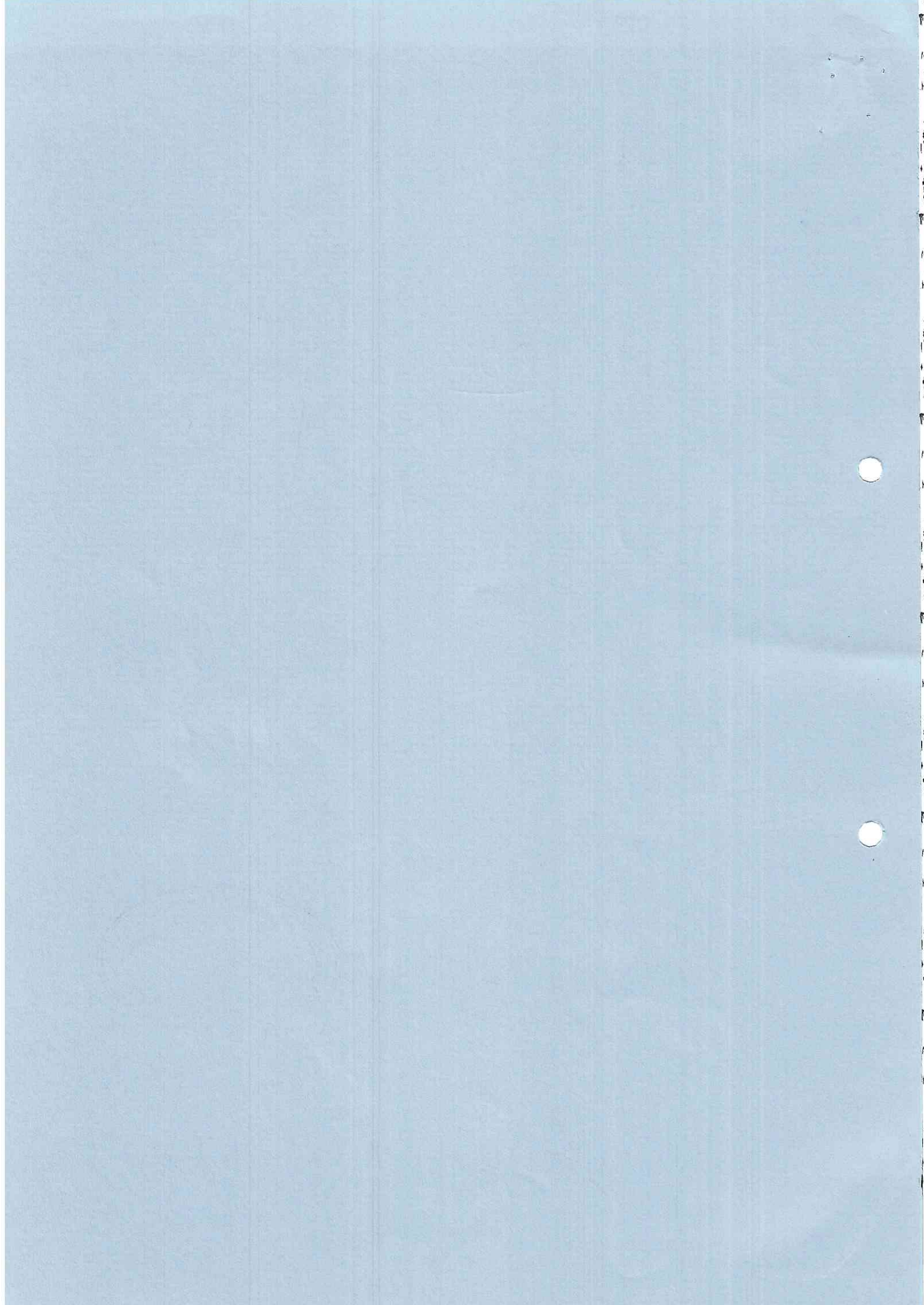
NB: In case the financial statements have been revised, kindly submit **ten (10)** duly signed original sets of the same with the response.

Yours Sincerely,

L. Ochieng

Lorna Ochieng
Deputy Director Audit (In-Charge)
For: AUDITOR-GENERAL





DRAFT**REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF BOMET FOR THE YEAR ENDED 30 JUNE, 2023**

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 the Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on the 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, risk management environment and internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

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 Bomet County Assembly set out on pages 1 to 41, which comprise the statement of financial assets and liabilities as at 30 June, 2023, 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 Bomet County Assembly as at 30 June, 2023 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 County Governments Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

The financial statements prepared and presented for audit had the following anomalies: -

1.1. Cash Flows Statements

As disclosed in Note 4 to the financial statement, the statement of cash flows reflects an amount of Kshs.392,204,384 in respect of compensation of employees. However, the statement of receipts and payments reflects an amount of Kshs.392,205,384 in respect of compensation of employees resulting to unexplained and unreconciled of variance of Kshs.1,000. Further casting the accuracy of the statement in respect of total payment for operating expenses revealed an amount of Kshs.843,951,207 which is at variance with the reported amount of Kshs.843,952,207 resulting to unexplained and unreconciled of variance of Kshs.1,000.

In the circumstances, the accuracy and completeness of the amount of Kshs. 392,204,384 in respect of compensation of employees could not be confirmed.

1.2. Variance Between Financial Statements and Payroll Ledgers

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects compensation of employees of an amount of Kshs.392,205,384. However, review of the payroll records for the twelve(12) months revealed an amount of Kshs.350,561,627 resulting to an unreconciled variance of Kshs.41,643,757 as shown below.

Item	Amounts as Per Financial Statements (Kshs)	Amount as Per Payroll Ledger (Kshs.)	Variance (Kshs.)
Basic salaries of permanent employees	152,158,122	114,184,227	37,973,895
Basic wages of temporary employees	49,118,986	48,781,168	337,818
Personal allowances paid as reimbursements		2,717,580	(2,717,580)
Personal allowances paid as part of salary	106,872,276	100,822,652	6,049,624
Other personnel payments	84,056,000	84,056,000	-
Total	392,843,384	350,561,627	41,643,757

In the circumstances, the accuracy and completeness of the amount of Kshs. 392,204,384 in respect of compensation of employees could not be confirmed.

2. Unsupported Domestic Travel and Subsistence Expenses

As disclosed in Note 5 to the financial statements, the statements of receipts and payments reflects use of goods and services an amount of Kshs.281,606,947 which includes Kshs.121,509,784 in respect of domestic travel and subsistence which further includes an amount of Kshs.8,252,154 incurred on mileage claims by Members County Assembly (MCA's) while outside the duty station. However, the approved the mailage paid were not supported by circulars authorizing the payments.

In the circumstances, the regularity, accuracy and completeness of expenditure on domestic travel subsistence of Kshs.8,252,154 on mileage claims could not be confirmed.

3. Unsupported Foreign Travel and Subsistence

As disclosed in Note 5 to the financial statements, the statements of receipts and payments reflects use of goods and services an amount of Kshs.281,606,947 which includes Kshs.47,335,480 in respect of foreign travel and subsistence to Members of County Assembly catering for foreign travel costs while attending training in seven (7) foreign countries. However, supporting documents including clearance from immigrations and boarding passes were not provided for audit review. Further, the foreign trainings were not supported with training needs assessment identifications of skill gaps in breach of Section K.4.4 County Assembly Human Resource Policies and Procedures Manual of October, 2021 which stipulates that selection of trainees for all training programs to be based on identified needs.

In the circumstances, the accuracy, completeness and value for money on the expenditure of an amount of Kshs.47,335,480 in respect of foreign travel and subsistence could not be confirmed.

4. Unsupported Other Operating Expenses

As disclosed in Note 5 to the financial statements, the statements of receipts and payments reflects use of goods and services an amount of Kshs.281,606,947 which includes Kshs.14,695,753 in respect of other operating expenses which further includes an amount of Kshs.7,499,020 in respect of rent for ward offices. However, copies of the title deed for land lords confirming land ownership were not provided for audit review. Further, the ward rental lease agreements provided revealed that the agreements were entered into between the Members of County Assembly (lessee) and the landlord (lessor) instead of between the County Assembly of Bomet and the Landlord. In addition, the lease agreement documents provided were not signed or endorsed by an Advocate of the High Court or County Assembly head of legal services to validate the agreements.

In the circumstances, the regularity, accuracy and completeness of other operating expenses amount of Kshs.7,499,020 could not be confirmed.

5. Unsupported Prior Year Balances

Paragraph 1.5.1 of IPSAS: Financial Reporting under the Cash Basis of Accounting provides that when an error arises in relation to a cash balance reported in the financial statements, the amount of the error that relates to prior periods, shall be reported by adjusting the cash at the beginning of the period. Comparative information shall be restated unless it is impracticable to do so. However, the statement of assets and liabilities reflects prior year adjustment of Kshs.242,779 which as disclosed at Note 17 to the financial statements related to the correction of prior year errors. However, the balances have not been restated.

In the circumstances, the accuracy and completeness of the respective financial statements balances for the year ended 30 June, 2023 could not be confirmed.

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (ISSAIs). I am independent of the Bomet County Assembly Management in accordance with ISSAI 130 on the 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 judgement, are of most significance in the audit of the financial statements. Except for the matters described in the Basis for Qualified Opinion section, I have determined that there are no other key audit matters to communicate in my report.

Other Matter

1. Budgetary Control and Performance

The Statement of comparison of budget and actual amounts: recurrent and development combined for the period ended 30 June, 2023 reflects final receipts budget of Kshs.1,095,199,848 and actual on comparable basis receipts of Kshs.1,075,872,839 resulting to underfunding of revenue of an amount of Kshs.19,327,009 or 2% of the budget. Similarly the statement reflects payments budget of Kshs.1,095,199,848 and actual on comparable basis expenditure of Kshs.1,075,872,246 resulting to under-absorption of expenditure of Kshs.19,327,602 or 2% of the budgeted amount.

In circumstances, the underfunding and under-expenditure could have adversely affected provision of services to the stakeholders of the County Assembly.

2. Pending Bills

Other important Disclosures and Annexure 1 to the financial statements reflects pending accounts payable balance of Kshs.2,643,640 which were not settled during the year under review but were carried forward to 2023/2024 financial year. However, the supporting documents including invoices, payment vouchers and procurement documents were not provided for audit review. Dates when the supplies and services were incurred not included in Annexure 1 as required by the template. Details of the pending bills indicating when they were incurred and the movement to the current balance were not provided for audit review. Further, Management did not explain why the bills were not settled as the first charge during the year under review. This was contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015 which prioritizes debt payments as a first charge.

Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for the subsequent year to which they have to be charged.

3. Unresolved Prior Year Matters

As disclosed under the progress on follow up of auditors recommendation section of the financial statements, the Management indicated that seven(7)prior year audit issues were resolved with a balance of three(3) not resolved. However Management did not provide reports and invitations from the oversight committee's detailing the deliberations and recommendations of the committees.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution and based on the audit procedures performed, except for the matter(s) described in the Basis for Conclusion, 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.

1. Irregular Payment of Salaries Outside the Integrated Payroll and Personnel Database (IPPD)

The statement of receipts and payments reflects compensation of employees' expenditure amount of Kshs.392,205,384. However, included in the balance is Kshs.118,624,010 processed and paid to forty nine (49) employees and members of the County Assembly outside the prescribed Integrated Payroll Personnel Database (IPPD) system contrary to The National Treasury Circular No.13/2019 dated 28 August, 2019, which states that Integrated Payroll Personnel Database (IPPD) must support the

allocation of personnel emoluments. No explanation was provided by Management for the use of the manual system

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

2. Payment of Excess House Allowance

Review of the monthly payrolls provided for audit revealed that payments totaling to Kshs.5,625,600 was made to fifty-six (56) employees in respect of special house allowance above the rates provided by the Salaries and Remuneration Commission. This is contrary to SRC circular Ref. No: SRC/TS/MDP/3/1/2(2) dated 11 August, 2015 which provides for the rates upon which house allowances are paid to various officers depending on their cadre.

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

3. Non-Compliance with One Third Basic Salary Rule

Review of the payroll records revealed seventeen (17) employees received net pay below a third (1/3) of their basic salary contrary to provisions of Section 19(3) of the Employment Act, 2007, which stipulates that the deductions made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed.

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

4. Late Remittance of Statutory Deductions

The statement of receipts and payments reflects compensation of employees' amount of Kshs.392,205,384 as disclosed in Note 4 to the financial statements. Review of the employee records including payrolls, statutory deductions, remittance schedules and bank statements, revealed that statutory deductions in respect of Pay As You Earn (PAYE) totaling to Kshs.7,103,349 was remitted after the due date. This contravenes Section 35 (5) of the Income Tax Act, Cap. 470 which states that where a person deducts tax under the Act, he shall remit the amount so deducted to the Commissioner on or before the twentieth day of the month following the month in which the deduction was made.

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

5. Lack of Training Needs Assessment

The statement of receipts and payment reflects an amount of Kshs.281,606,947 in respect of use of goods and services which, as disclosed in Note 5 to the financial statements. Included in the amount is training expenses totaling to Kshs.41,909,500 incurred without training needs assessments or identifications of skill gaps in breach of Section K.4.4 County Assembly Human Resource Policies and Procedures Manual of

October, 2021 which stipulates that selection of trainees for all training programs to be based on identified needs.

6. Irregular Payment of Subscriptions to Professional Bodies

The statement of receipts and payments reflects an expenditure of Kshs.281,606,947 on use of goods and services which as disclosed in Note 5 to the financial statements includes an amount of Kshs.14,699,353 in respect of other operating expenses. The expenditure includes amounts of Kshs.750,000 and Kshs.700,000 relating to subscription fees made to the Society of Clerks-at-the-Table (SOCATT) and to the County Assemblies Forum (CAF) respectively. However, the payments were made without budgetary allocation in line with Regulation 31(a) and 50(2) of the Public Finance Management (county Governments) Regulations, 2015 which requires that all expenditure shall be entered into the budget and shall be committed only against allocation and commitments approval.

Further, there is no existing law or policy in place authorizing the said payments of subscription fees and no verifiable document was provided for audit to support the two organizations Constitutional mandates.

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

7. Delayed Completion of Speaker's Residence

The statement of receipts and payments reflects acquisition of assets amount of Kshs.231,920,039 as disclosed in Note 10 to the financial statements which includes an amount of Kshs.188,754,128 in respect of construction of buildings. The expenditure includes an amount of Kshs.8,104,467 in respect of construction of the speaker's residence. The tender to construct the residence was awarded on 13 January 2022 at a cost of Kshs.34,500,000 for a period of twenty four (24) weeks ending 16 September 2022. Project records indicated that the contractor had been paid total amount of Kshs.12,578,000 equivalent to 36% of the contract amount against certified works completed as at 30 June 2023. However, physical verification in the month of October, 2023 revealed that the construction was not complete after the initial contract was extended by another twelve (12) months to 07 November, 2023. Plastering, electrical, Plumbing and painting works had not been completed and the Management did not provide for audit review the revised work schedule as well as the extended performance bond.

In the circumstances, value for money may not be realized from the delayed works.

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (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 comply, 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 THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015 and based on the audit procedures performed, except for the matter described in the Basis for Conclusion, 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

Weak Information and Communication Technology (ICT) Controls

Review of the County Assembly's ICT Environment revealed that there was no reliable information back-up plan in place. The Management did not assess the impact of an outage or disruption to the information communication technology systems such as the Hansard system. Further, Management did not develop business continuity or information technology disaster recovery plan and there was no IT strategic committee which should provide governance on information technology matters.

In the circumstances, in case of a disaster, significant delays or disruptions of activities may occur, the County Assembly may not recover or restore critical infrastructure services and systems affecting all operations that rely on the Information Communication Technology.

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (ISSAIs) 2315 and 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, 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 the Management and those Charged with Governance

The Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as the Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and governance.

In preparing the financial statements, the Management is responsible for assessing the County Assembly's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Management is aware of the intention to cease operations.

The 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, the Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements comply 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 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 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 Assemblys to cease to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the County Assembly to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with 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.

FCPA Nancy Gathungu, CBS

AUDITOR-GENERAL

Nairobi

Date:

