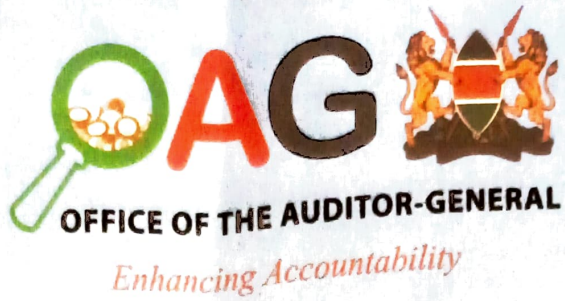


REPUBLIC OF KENYA



REPORT

OF

THE AUDITOR-GENERAL

ON

**COUNTY EXECUTIVE OF
THARAKA-NITHI**

**FOR THE YEAR ENDED
30 JUNE, 2024**

REPUBLIC OF KENYA



Enhancing Accountability

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REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF THARAKA - NITHI FOR THE YEAR ENDED 30 JUNE, 2024

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on 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 the 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 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.

A Qualified Opinion is issued when the Auditor-General concludes that, except for material misstatements noted, the financial statements are fairly presented in accordance with the applicable financial reporting framework. The Report on Financial Statements should be read together with the Report on Lawfulness and Effectiveness in the Use of Public Resources and the Report on Effectiveness of Internal Controls, Risk Management and Governance.

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 Executive of Tharaka-Nithi set out on pages 1 to 38, which comprise of the statement of financial assets and liabilities as at 30 June, 2024 and the statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of County Executive of Tharaka-Nithi as at 30 June, 2024 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 County Governments Act, 2012 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Misclassification of Expenditure

The statement of receipts and payments reflects compensation for employee's amount of Kshs.2,354,655,972 which includes basic salaries of permanent employees amount of Kshs.1,618,127,909 as disclosed in Note 4 to the financial statements. However, the amount includes payments totalling Kshs.66,039,293 made on account of casual wages for temporary employees posted to various departments in the County thereby overstating basic salaries for permanent employees by an amount of Kshs.66,039,293 and understating basic salaries for temporary employees by the same amount thus distorting the balances reflected in the financial statements.

In the circumstances, the accuracy and completeness of basic salaries for permanent employees amount of Kshs.1,618,127,909 could not be confirmed.

2. Un-accounted for Contractors Retention Money

As previously reported, the statement of assets and liabilities reflects account payables balance of Kshs.81,154,193 which includes retentions from contractors' balance of Kshs.77,541,652 as disclosed in Note 12 to the financial statements. However, the Tharaka-Nithi County Deposit Bank Account had a balance of Kshs.806,975 resulting to an unexplained and unreconciled variance of Kshs.76,734,652.

In the circumstances, the accuracy and completeness of the account payables balance of Kshs.81,154,193 could not be confirmed.

3. Variance in Acquisition of Assets

The statement of receipts and payments reflects acquisition of assets amount of Kshs.719,632,632 as disclosed in Note 8 to the financial statements. However, Part VI of Note 16 to the financial statements – summary of non – current asset register discloses assets historical cost balance of Kshs.5,457,360,368 which includes a balance of Kshs.225,005,432 acquired during the year. However, the assets historical cost balance of Kshs.5,457,360,368 was not supported by non-current asset registers for both assets acquired by the County Government and those inherited from Defunct Local Authorities.

In the circumstances, the accuracy and completeness of acquisition of assets amount of Kshs.719,632,632 and assets historical cost balance of Kshs.5,457,360,368 could not be confirmed.

4. Variance in Pending Bills Accounts Payables

Note 16.1 to the financial statements on other important disclosures reflects pending bills amounting to Kshs.842,939,684 out of which a balance of Kshs.252,377,400 relate to the period between 2013/2014 to 2022/2023 financial years. However, the pending bills total amount of Kshs.842,939,684 includes a balance of Kshs.2,123,644 due to Lap Fund while the financial statements for Lap Fund reflect an outstanding amount of Kshs.2,128,327 leading to a variance of Kshs.4,683 which was not explained or reconciled.

Further, Management did not explain why the bills were not settled during the year when they occurred.

In the circumstances, the accuracy and completeness of the accounts payable balance of Kshs.2,123,644 could not be verified.

The audit was conducted in accordance with International Standards for Supreme Audit Institutions (ISSAIs). I am independent of the Tharaka-Nithi County Executive 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.

Emphasis of Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts - recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.5,954,279,762 and Kshs.4,688,222,963 respectively, resulting to budget underfunding of Kshs.1,266,056,799 or 21% of the budget. Similarly, the County Executive spent an amount of Kshs.4,596,640,671 against actual receipts of Kshs.4,688,222,963 resulting to an underutilization of Kshs.91,582,292 or 2% of the actual receipts.

The budget underfunding and underutilization affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

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

Other Matter

Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised. However, no report or recommendations from Management and oversight bodies were submitted for verification. In addition, the issues remain unresolved as at 30 June, 2024.

Other Information

Management is responsible for the other information set out on page i to xxv which comprise of Key Entity Information and Management, Governance Statement, Foreword by the CEC Member Finance and Economic Planning, Statement of Performance Against Predetermined Objectives, Environmental and Sustainability Reporting and Statement of Management Responsibilities. The Other Information does not include the financial statements and my audit report thereon.

In connection with my audit on the County Executive of Tharaka Nithi financial statements, my responsibility is to read the other information and in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If based on the work I have performed, I conclude that there is a material misstatement of this Other Information, I am required to report that fact. I have nothing to report in this regard.

My opinion on the financial statements does not cover the Other Information and accordingly, I do not express an audit opinion or any form of assurance conclusion thereon.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE 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 the Use of Public Resources section of my report, I confirm that nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Failure to Submit Financial Statements

The County Executive did not prepare and submit to the Auditor-General, financial statements for twenty-seven (27) Youth Polytechnics. This was contrary to section 47(1) of the Public Audit Act, 2015 which states that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

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

2. Delayed Upgrading of Kambandi-Cheera-Ruguti Road to Bitumen Standards

The statement of receipts and payments reflects acquisition of assets amount of Kshs.719,632,632 which includes construction of roads amount of Kshs.337,137,936 as disclosed in Note 8 to the financial statements. This further includes Kshs.99,547,516 paid to a contractor for upgrading of Kambandi-Cheera-Ruguti road to bitumen standards that was awarded on 21 November, 2018 for a contract period of 3 years and contract completion period of December, 2022 but extended to 24 October, 2024 as per the approval dated 24 April, 2023. Records show total payments to date amount to Kshs.262,698,327 representing 74% completion rate.

Further, physical inspection done in September, 2024 revealed that the contractor was not on site. No correspondences were provided on measures being taken to complete the projects.

In the circumstances, value for money for the expenditure totalling Kshs.262,698,327 could not be confirmed.

3. Delayed Upgrading of Karandini-Kithioroni Road to Bitumen Standards

The statement of receipts and payments reflects acquisition of assets amount of Kshs.719,632,632 which includes construction of roads amount of Kshs.337,137,936 as disclosed in Note 8 to the financial statements. This further includes an amount of Kshs.90,383,198 paid to a contractor for a road works for upgrading of Karandini-Kithioroni road to bitumen standards awarded on 10 December, 2020 for period of 3 years and a contract completion period of 10 December, 2023 but extended to 4 June, 2025 as per the approval dated 4 December, 2023. Records show payments to date totalling Kshs.313,761,015 representing 70% completion of the Project.

Further, physical inspection done on 18 September, 2024 revealed that contractor was not on site. No correspondences were provided on measures being taken to complete the projects.

In the circumstances, value for money in the expenditure of Kshs.313,761,015 could not be confirmed.

4. Delayed Upgrading of Tunyai - Ntaara road to Bitumen Standards

The tender to upgrade Tunyai-Ntaara road to bitumen standards was awarded in November 2018 to a contractor at a contract sum of Kshs.689,341,600. The contract period was three (3) years from 25 November, 2018 to November 2022 and was to cover 20 Kilometres. However, the Project is yet to be completed as at the time of audit inspection in September, 2024 with the Project having stalled after only upgrading 4Km of the road. Further, the contractor had abandoned the site having been paid a total of Kshs.117,999,162.

In the circumstances, value for money in the expenditure of Kshs.117,999,162 could not be confirmed.

5. Delayed Construction of Ndagani Market

The statement of receipts and payments reflects acquisition of assets amount of Kshs.719,632,632 which includes infrastructure and civil works amount of Kshs.148,965,877 as disclosed in Note 8 to the financial statements. This includes an amount of Kshs.14,535,270 paid to a contractor towards construction of Ndagani Market. Review of records show that the contract for construction of Ndagani Market was awarded to a contractor and signed on 6 June, 2023 at a cost of Kshs.42,942,750 for a contract period of ten (10) months. The order to commence works was given immediately. A total of Kshs.14,535,270 was paid towards the project during the year under review. Audit inspection carried out in September, 2024 on the above Project revealed that the contractor was not on site, the ramp for scaling the heights from the ground floor to the first floor was exposed and could be vandalized and the Project had stalled.

In the circumstances, the public did not realized value for money in the expenditure of Kshs.14,535,270.

6. Non-Compliance with the One Third of Basic Salary Rule

Review of the June, 2024 payroll revealed that fifty (50) employees received net salaries which were less than a third (1/3) of their basic salaries. This was contrary to Section 19(3) of the Employment Act, 2007 which provides that, 'without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of sub section (1), may be 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 by the

Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry’.

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

7. Non-Compliance with the Law on Staff Ethnic Composition

Review of June payroll revealed that the County Executive had two thousand six hundred and six (2,666) employees as at 30 June, 2024. However, one thousand eight hundred and twenty-nine (1,829) members of staff of ethnic code 6 or 69% were from one dominant ethnic Community. This was contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff, and that no public establishment shall have more than one third of its staff from the same ethnic community.

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

8. Non-Compliance with the Fiscal Responsibility Principle on Wage Bill

The statement of receipts and payments reflects expenditure totalling Kshs.2,354,655,972 in respect of compensation of employees representing 50% of the total revenue received of Kshs.4,686,978,781 during the year under review. This was contrary to Regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the County executive to set a wage limit which should not exceed 35% of the total revenue received.

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

9. Non-Compliance with Fiscal Responsibility Principle on Development Expenditure

The statement of receipts and payments reflects total expenditure of Kshs.4,596,414,271 comprising recurrent and development expenditures of Kshs.3,437,761,692 and Kshs.1,158,652,579 respectively. The development expenditure accounted for 25% of the total expenditure which was below the 30% threshold stipulated by Regulation 25(1)(g) of the Public Finance Management (County Governments) Regulations, 2015.

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

10. Irregular Payment to Council of Governors

The statement of receipts and payments for the year ended 30 June, 2024 reflects on use of goods and services expenditure of Kshs.920,451,767 as disclosed in Note 5 to the financial statements which includes expenditure on other operating expenses amount of Kshs.92,160,333. Included in this amount is a payment of Kshs.5,000,000 paid to the Council of Governors. However, Management did not provide an explanation for the

payment to the Council which is an independent entity. The operational expenses for the structures and institutions established under Intergovernmental Relations Act, 2012 are however supposed to be provided from the annual estimates of the revenue and expenditure of The National Government.

In the circumstances, the above payment was irregular and Management was in breach of the law.

11. Voided Transactions

The statements of receipts and payments for the year ended reflects total payments of Kshs.4,596,414,271. However, review of Integrated Financial Management Information System (IFMIS) records revealed that six hundred and fifteen (615) payment transactions totalling Kshs.293,323,824 were processed and voided or cancelled during the year ended 30 June, 2024. These transactions were not supported by requests to void and documentary evidence to confirm that the Controller of Budget was informed of the voiding of the payments so as to make necessary adjustments.

In the circumstances, the accuracy and propriety of voided payments amounting to Kshs.293,323,824 could not be confirmed.

The audit was conducted in accordance with ISSAI 3000 and ISSAI 4000. The standards require 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 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 matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

Basis for Conclusion

Personal Emoluments Paid Outside IPPD Payroll System

Review of the Payroll System revealed that the County Executive runs two (2) payrolls namely the Integrated Payroll and Personnel Database (IPPD) and excel spreadsheets. The IPPD reflected a total of two million, six hundred and sixty-six (2,666) employees while the manual payroll had one hundred and twelve (112) employees. As a result, one hundred and twelve (112) employees were paid a total of Kshs.16,746,137.28 through

the manual payroll. The use of the manual payroll requires manual input of data and calculation of deductions which is prone to error and manipulation.

In the circumstances, the effectiveness of the internal controls on the payroll system could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal 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 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 controls 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 controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the County Executive's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of intention to dissolve the County Executive 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 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 Executive 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

My responsibility is to conduct an audit of the financial statements in accordance with Article 229(4) of the Constitution, Section 35 of the Public Audit Act, 2015 and the

International Standards for Supreme Audit Institutions (ISSAIs). The standards require that, in conducting the audit, I obtain reasonable assurance about whether the financial statements as a whole are free from material misstatements, whether due to fraud or error and to issue an auditor's report that includes my opinion in accordance with Section 48 of the Public Audit Act, 2015. 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 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 conducting the audit, Article 229(6) of the Constitution also requires that I express a conclusion on whether or not 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 addition, I consider the entity's control environment 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.

Further, I am required to submit the audit report in accordance with Article 229(7) of the Constitution.

Detailed description of my responsibilities for the audit is located at the Office of the Auditor-General's website at: <https://www.oagkenya.go.ke/auditor-generals-responsibilities-for-audit/>. This description forms part of my auditor's report.


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

20 December, 2024