REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF ELGEYO/MARAKWET FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Elgeyo/Marakwet set out on pages 1 to 30, which comprise the statement of financial assets and liabilities as at 30 June, 2019, the statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the County Assembly of Elgeyo/Marakwet as at 30 June, 2019, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the County Governments Act, 2012.

Basis for Qualified Opinion

1. Presentation, Completeness and Accuracy of Financial Statements

1.1 Inaccuracies and Irregular Presentation of the Financial Statements

The financial statements for the year under review contain the following inaccuracies and unconfirmed disclosures of balances:

i. The statement of cash flows for the year ended 30 June, 2019 reflects prior year cash and cash equivalents balance adjustments amounting to Kshs.491,128 made against bank account balances at Kshs.11,299 and cash in hand at shs.479,829, as disclosed in Note 17 to the financial statements. Further, the statement for receipts and payments for the year ended 30 June, 2019 reflects prior year cash surplus of Kshs.143,612 while the statement of assets and liabilities as at 30 June, 2019 shows a cash and cash equivalents balance of Kshs.491,128 for the year.

ii. The statement of cash flows reflects an unexplained difference of Kshs.1,000 between the cash movement and the closing cash balances.

iii. The pending accounts payable schedule that makes Annex I to the financial statements reflects an original pending bills as well as an aggregate balance of Kshs.33,233,222 paid to date. However, on casting, the bills included in the annexure amount to Kshs.43,978,467. Therefore, the outstanding pending bills balance as at 30 June, 2019 amounts to Kshs.10,745,245 instead of the nil balance shown in the Annex. Further the outstanding balance amounting to Kshs.1,126,826 as at 30 June, 2018 is under cast by Kshs.71,600.

No plausible explanations have been provided by Management for these discrepancies and as a result, the accuracy of the financial statements has not been confirmed.

1.2 Financial Statements do not Conform to the Prescribed Format

The bank reconciliation statement as at 30 June, 2019 reflected in Annex 6 to the financial statements was prepared manually and not generated from the Integrated Financial Management Information System (IFMIS) as required by the Public Sector Accounting Standards Board.

Further, the summary statement of appropriation combined does not show the budget utilization difference for the year as required in the format prescribed by the Public Accounting Standards Board.

1.3 Anomalies in Brought Forward Balances for Assets

The summary of fixed asset register at Annex 4 reflects brought forward asset balances under historical costs totalling Kshs.159,751,028 against a balance totalling Kshs.82,381,030 reflected the previous year's audited financial statements as shown in the attached Appendix I. The increase by Kshs.77,369,998 from the closing balance for the previous year has not been explained.

1.4 Differences Between Financial Statements and IFMIS Balances

Balances for Compensation of Employees, Use of Goods and Services and Acquisition of Assets totalling Kshs.17,483,824, Kshs.12,108,002 and Kshs.958,826 respectively reflected in the financial statements presented for audit differ with identical account balances reflected in IFMIS records, as shown in the attached Appendix II.

In view of these omissions and discrepancies, the accuracy and completeness of the financial statements for the year ended 30 June, 2019 has not been confirmed.

2. Unaccounted for Assets and Liabilities from the Defunct Local Authorities

The summary of fixed assets register shown as Annex 4 to the financial statements indicates that the County Assembly held assets valued at Kshs.179,066,069 as at 30 June, 2019. However, the balance does not include the values of fixed assets taken over by the County Assembly from the defunct local authorities located in Elgeyo/Marakwet County. The assets include land, buildings, motor vehicles, furniture and fittings and office equipment. Management has not provided a plausible explanation why the assets have not been included in the financial statements.

Consequently, the accuracy and completeness of the summary of fixed assets register balance amounting to Kshs.179,066,069 as at 30 June, 2019 has not been confirmed.

3. Unsupported Expenses - Domestic Travel and Subsistence Allowances

The statement of receipts and payments for the year ended 30 June, 2019 reflects use of goods and services expenditures totalling Kshs.244,517,949 as further disclosed in Note 5 to the financial statements. Included in the balance is Kshs.67,801,483 incurred on domestic travel and subsistence. Examination of records indicated that Kshs.11,298,000 was paid as per diem during the 1st Edition the of County Assemblies Sports tourney held in Nairobi. However, the expenditure was not supported with attendance reports and as a result, its validity could not be confirmed.

Further, a review of records indicated that payments totalling Kshs.23,284,100 paid out as travel imprests were directly expensed without being supported with relevant documentation. This was contrary to Regulation 91(2) of the Public Finance Management (County Government) Regulations, 2015 and Section 6 of the County Financial Reporting Manual, 2015. Both require Management to support expenditures with relevant documentation.

Consequently, the validity and completeness of domestic travel and subsistence expenditures totalling Kshs.67,801,483 reflected in the statement of receipts and payments for the year under review has not been confirmed.

4. Unsupported Expenses - Foreign Travel and Subsistence Allowances

The statement of receipts and payments for the year ended 30 June, 2019 reflects use of goods and services totalling Kshs.244,517,949 out of which Kshs.14,921,518 relates to foreign travel and subsistence, as further disclosed in Note 5 to the financial statements. However, review of expenditure records indicated that contrary to regulations, imprests totalling Kshs.6,689,865 were directly expensed without being accounted for with relevant expenditure documents.

Further, examination of expenditure records indicated that payments totalling Kshs.3,448,750 also reported to have been incurred through imprests, were not supported with imprest warrants and documentation. As a result, the occurrence and validity of the expenditures could not be confirmed.

Included in the payments totalling Kshs.14,921,518 incurred on foreign travel and subsistence allowances during the year under review were payments totalling Kshs.9,245,229 incurred on a study tour in Uganda. However, the expenditure was, similarly, not supported with imprest warrants and invitation letters for the tour. Furthermore, the report on the study tour, including means identified to implement the lessons learnt, was not presented for audit.

In view of these anomalies, the accuracy, completeness and validity of the expenditure totalling Kshs.14,921,518 incurred on foreign travel and subsistence allowances during the year under review has not been confirmed.

5. Unsupported Training Expenses

The statement of receipts and payments for the year ended 30 June, 2019 reflects use of goods and services payments totalling Kshs.244,517,949 out of which Kshs.22,004,040 are training expenses, as disclosed in Note 5 to the financial statements. However, review of records indicated that imprests totalling Kshs.1,797,975 were directly expensed without any surrender or accountability documents contrary to the provisions of the Public Finance Management (County Government) Regulations, 2015 and County Financial Reporting Manual, 2015.

Consequently, the occurrence and validity of the expenditures totalling Kshs.22,004,040 incurred on training expenses has not been confirmed.

6. Unsupported Hospitality Supplies and Services

The statement of receipts and payments for the year ended 30 June, 2019 further reflects use of goods and services totalling Kshs.244,517,949 out of which Kshs.22,819,985 relates to hospitality supplies and services, as shown in Note 5 to the financial statements. However, examination of records on the expenditures indicated that imprests amounting to Kshs.5,305,320 were directly expensed without being supported with relevant expenditure documents contrary to Section 91(2) of the Public Finance Management (County Government) Regulations, 2015 and Section 6 of the County Financial Reporting Manual, 2015.

As a result, the occurrence and validity of the expenditures totalling Kshs.22,819,985 on hospitality supplies and services has not been confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Assembly of Elgeyo/Marakwet in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. I have determined that there are no key audit matters to communicate in my report.

Other Matter

1. Satisfactory Budgetary Performance

During the year under review, the total budget of the County Assembly of Elgeyo/Marakwet amounted to Kshs.567,970,833 comprised of development and recurrent allocations of Kshs.1,126,826 and Kshs.566,844,007 respectively. The development vote was spent in full while only Kshs.361,868 of the recurrent vote allocation remained at the end of the year. Therefore, the County Assembly's expenditure absorption rate during the year under review was satisfactory.

2. Unresolved Prior Year Audit Matters

In the audit for the previous year, several issues were raised under the report on Financial Statements, Report on Lawfulness and Effectiveness in use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has neither resolved the issues nor, as required under the reporting template prescribed by the Public Sector Accounting Standards Board, provided a summary in the financial statements outlining the actions envisaged or taken to resolve them. Therefore, the matters remain unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Qualified Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections 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. Unauthorized Expenditure on Compensation of Employees

The statement of receipts and payments for the year ended 30 June, 2019 reflects compensation of employees' expenses totalling Kshs.278,775,965. Included in the balance is Kshs.5,223,877 being income tax paid on gratuity for members of the County Assembly who served between March, 2013 to August, 2018.

Clause 4.8 of the bilateral agreement dated 6 May, 2014 between the Elgeyo/Marakwet County Assembly Service Board and the Local Authorities Provident Fund Board required the Fund to deduct upon payment, all statutory deductions and remit these to the relevant authorities on behalf of the members. However, the Local Authorities Provident Fund paid gross benefits to beneficiaries without deducting and remitting tax to Kenya Revenue Authority (KRA). Available information indicated that in September, 2018 KRA demanded from the County Assembly Service Board, gross Pay-As-You-Earn (PAYE) tax totalling Kshs.5,223,877, penalties of Kshs.1,305,969 and interest of Kshs.156,716. The County Assembly paid Kshs.5,223,877 and requested for a waiver of the penalty and interest but this had not been granted at the time of audit.

Consequently, the Members of the County Assembly owed taxes totalling Kshs.5,223,877 which were paid contrary to the Law.

2. Compensation of Employees Ratio Exceeding Recommended Threshold

During the year under review, the County Assembly spent Kshs.278,775,965 or 49% of its total own-generated receipts amounting to Kshs.567,762,197 on compensation of employees. This was contrary to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015 which limits the ratio to 35% or less of the County Government's total revenue.

The County Assembly therefore breached fiscal responsibility principles on allocation of public funds.

3. Unsupported Recruitment of Staff

A review of the payroll indicated that the County Assembly employed 44(forty-four) new staff to work in Ward Offices and in the Office of the Speaker. However, there were no records to show whether the staff were recruited through a competitive process, as expected.

As a result, it was not possible to confirm that the recruitment process was conducted in a fair and transparent manner and that the best qualified applicants were selected. Consequently, it was not possible to confirm that the emoluments paid to the new employees totalling Kshs.19,190,878 during the year under review were valid.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Qualified Opinion, Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources and

Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance sections of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Staff whose Net Pay is Less than a Third of Basic Pay

During the year under review net salaries totalling Kshs.2,320,397.70 were paid to several staff of the County Assembly after deductions totalling Kshs.1,860,568.30 were made on their minimum net pay amounting to Kshs.4,180,966.00. The deductions were in excess of one-third of their salaries and therefore contravened Section 19(3) of the Employment Act, 2007 and exposed the staff to the risk of pecuniary embarrassment.

2. Lack of ICT Controls

As similarly reported in the previous year, Management has not implemented the following aspects of the Information Communication Technology (ICT) policy of the County Assembly:

(i) sharing regular updates of security features with system users;

(ii) issuing staff members with unique e-mail addresses;

(iii) setting up office intranet and

(iv) establishing an ICT Department with an ICT Manager.

In the circumstance, the ICT function of the County Assembly is not well established and does not support other functions of the County Assembly in an effective way.

3. Non-Functional ICT Strategic Committee

Management has established an ICT Strategic Committee. However, there was no evidence showing that the Committee carried out any activities during the year under review. In addition, the County Assembly's ICT Steering Committee met only twice during the year against the four times prescribed in its terms of reference. These omissions suggested that leadership and governance were not prioritized by Management.

The audit further observed that there were no documented and approved processes to manage upgrades to all financial and performance information systems. As a result, the risk of loss or corruption of data during upgrades was high.

No explanation was provided by Management for these anomalies.

4. Lack of Risk Management Policy and Business Recovery Plan

A review of the control environment during the year under review indicated that the County Assembly did not have a risk management policy and business recovery or continuity plan. Further, the Assembly did not have documented human resource policies and procedures setting qualifications required for various posts. Also missing were policies or strategies for continuous development and for measurement of employee competences and skills.

In view of these omissions, investments made in systems and staff may not yield the desired results because they are not used effectively.

5. Non-Functional Audit Committee and Lack of Risk Based Audit Plan and Internal Audit Charter

Examination of activities of the Internal Audit Unit revealed that the Unit did not have a Charter that set out its role as well as functions and performance expectations. In addition, the Unit's activities were not guided by an internal audit plan that addressed risks it had identified. Further, the Unit had only two of the eight staff members provided for in the approved staff establishment. Similarly, the Audit Committee had only one member which was insufficient to fulfil its mandate.

Overall, managerial accountability was weak as audit recommendations were not implemented.

In view of these weaknesses, oversight over the integrity of the County Assembly's financial information is weak. As a result, there is high risk of non-compliance of financial and other transactions with laws and regulations and this may cause loss or ineffective use pf public resources.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

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

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

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how the County Assembly monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the County Assembly policies and procedures may deteriorate.

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

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

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.

- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the County Assembly's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the County Assembly to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the County Assembly to express an opinion on the financial statements.

- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

Nancy Gathungu
AUDITOR-GENERAL

Nairobi

15 January, 2021

Appendix I
Unexplained Differences in Fixed Assets Brought Forward

	Historical Cost b/f as Per Financial Statements	Historical Cost as Per Prior Year Audited Financial Statements	Difference

Asset class	Kshs.	Kshs.	Kshs.
Land			
Buildings and Structures	70,773,025	29,236,215	41,536,810
Transport Equipment	44,745,161	13,875,000	30,870,161
Office Equipment, Furniture and Fittings	11,438,838	11,165,977	272,861
ICT Equipment	26,304,038	26,304,038	-
Machinery and Equipment	6,489,966	1,799,800	4,690,166
Total	**159,751,028**	**82,381,030**	**77,369,998**

Appendix II
Unexplained Differences Between Financial Statement and IFMIS Balances

Item	Amount as IFMIS Records Kshs.	Amount as per Financial Statements Kshs.	Difference Kshs.
Compensation of Employees			
Personal Allowances Paid as Part of Salary	128,223,418	78,670,825	49,552,593
Personal Allowances Paid as Reimbursements	-	24,507,099	(24,507,099)
Personal Allowances Provided in Kind	-	7,999,838	(7,999,838)
Pension and Other Social Security Contributions	-	17,045,656	(17,045,656)
Other Personnel Payments (Gratuity)	-	17,483,824	(17,483,824)
Use of Goods and Services	**-**	**-**	**-**
Office and General Supplies and Services	5,696,400	7,898,486	(2,202,086)
Other Operating Expenses	59,415,704	62,514,860	(3,099,156)
Routine Maintenance – Other Assets	2,227,399	2,301,479	(74,080)

Item	Amount as IFMIS Records Kshs.	Amount as per Financial Statements Kshs.	Difference Kshs.
Other Payments – Bank Charges		500	(500)
Social Security	17,483,824	-	17,483,824
Acquisition of Assets	**-**	-	**-**
Construction and Civil Works	1,126,826	168,000	958,826
Purchase of Office Furniture and Equipment	9,073,135	2,833,940	6,239,195
Purchase of ICT Equipment	-	7,813,275	(7,813,275)
Research, Feasibility Studies, Project Preparation and Design, Project Supervision	74,080	-	74,080
Purchase of Specialized Plant, Equipment and Machinery	1,500,000	-	1,500,000