

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF ELGEYO MARAKWET FOR THE YEAR ENDED 30 JUNE 2017

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of County Assembly of Elgeyo Marakwet set out on pages 7 to 34 which comprise the statement of financial assets and liabilities as at 30 June 2017, 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, 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 County Assembly of Elgeyo Marakwet as at 30 June 2017, 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 Public Finance Management Act, 2012.

In addition, as required by Article 229(6) of the Constitution, based on the audit procedures performed, I confirm that public money has not been applied lawfully and in an effective way.

Basis for Adverse Opinion

1.0 Transfers from County Treasury/Exchequer Releases

The statement of receipts and payments for the year ended 30 June 2017 discloses total exchequer releases, of Kshs.469,026,873 which is at variance with the report of the Controller of Budgets figure of Kshs.476,900,000 comprising of recurrent exchequer of Kshs.460,860,000 and development exchequer releases of Kshs.16,040,000 and therefore resulting in an unexplained variance of Kshs.7,873,127. Consequently, the validity, accuracy and completeness of the exchequer releases of Kshs.469,026,873 for the year ended 30 June 2017 could not be confirmed.

2.0 Hospitality Services

The statement of receipts and payments reflects use of goods and services' figure of Kshs.164,049,784. Included in this figure is Kshs.7,544,340 is in respect of hospitality supplies and services as disclosed under note 5 to the financial statements, out of which an amount of Kshs.2,322,900 was not supported.

In the circumstances, the accuracy, completeness and propriety of expenditure totalling Kshs.2,322,900 on hospitality services could not be confirmed.

3.0 Pending Bills

Note 18.1 to the financial statements reflects pending accounts payables figure of Kshs.9,007,127 in respect of construction of buildings and supply of goods of Kshs.6,051,026 and 2,956,101 respectively. Available records indicate that the County Assembly had a budget of Kshs.16,039,829 to clear pending bills. However, no explanation has been provided for failure to clear these pending bills.

Consequently, the existence, completeness and propriety of the pending accounts payables balance of Kshs.9,007,127 as at 30 June 2017 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Assembly of Elgeyo Marakwet in accordance with ISSAI 30 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 Adverse 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 reported in the Basis for Adverse Opinion and Other Matter paragraphs, I have determined there are no other key audit matters to report.

Other Matter

1.0 Budget Control and Performance

1.1 Budget Absorption

During the year under review, the County Assembly of Elgeyo Marakwet had a total budget of Kshs.484,586,141 comprising recurrent budget of Kshs.467,089,372 and development budget of Kshs.17,496,769 . The County Assembly incurred an actual total expenditure of Kshs.469,026,873 comprising recurrent actual expenditure of Kshs.460,857,172 and development actual expenditure of Kshs.8,169,701 .Further the overall budget reflected an under absorption of Kshs.15,559,268 or 3% as summarized below:

Item	Budget Amount (Kshs)	Actual Expenditure (Kshs)	Under Absorption (Kshs)	Under Absorption Rate%
Recurrent Budget	467,089,372	460,857,172	6,232,200	1.33
Development Budget	17,496,769	8,169,701	9,327,068	53.31
Total	484,586,141	469,026,873	15,559,268	3.21

The under absorption of the approved budget is an indication of activities and projects in the annual work plan not implemented by the County Assembly. This is likely to have a negative effect on the delivery of goods and services to the County Assembly. There is need for the management to re-look at its budgetary mechanism with a view to focusing on priority areas that will enhance service delivery to the residents of Elgeyo Marakwet County.

1.2 Development Budget

During the year under review, the County Assembly of Elgeyo Marakwet allocated Kshs.17,496,769 towards development projects and spent a total of Kshs.8,169,701 resulting in an under expenditure of Kshs.9,327,068.

It is therefore clear that the County Assembly did not fully utilize Kshs.9,327,068 of the funds allocated for development and hence the intended objectives were not achieved. This is likely to hamper service delivery to the people of Elgeyo Marakwet due to lack of prerequisite infrastructure.

2.0 Failure to Observe One Third Staff Establishment Rule

A review of personnel records availed for audit revealed that as at 30 June 2017, the County Assembly had a staff establishment of 67 (Sixty seven), out of whom 63 (Sixty three) or 94% staff are from one ethnic community leaving only 4 (four) 5% from other ethnicities against the recommended threshold of 30% as required by Section B.7 of the County Public Services Human Resources manual, 2013 and Section 65(1) (e) of the County Government Act, 2012. The authorities require that County Public Service Board in selecting employees to ensure that at least thirty (30%) of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic Community. Further, Available records revealed that out of the 67 (Sixty seven) members of staff, 7 (seven) were recruited during the financial year 2016/2017 out of which all the seven were from one ethnic Community. Consequently, the management is in breach of the law.

3.0 Failure to Comply with One Third Net Salary

Audit review of the County Assembly Payroll for the year ended 30 June 2017 revealed that the Members of the County Assembly earned net salaries less than a third of their basic pay with some earning nil salary contrary to provisions of Section 19(3) of the Employment Act, 2007. The law states 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 deductions which under the provisions of subsection (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 or employees of any other trade or industry. Consequently, the County Assembly is in breach of law.

4.0 Irregular Committee Sitting Allowances

The statement of receipts and payments reflects a figure on compensation of employees amounting to Kshs.265,065,957 out of which Kshs.37,495,999 is in relation to sitting allowances/honoraria. An examination of the payment schedules against the attendance register revealed that one officer, who during the year was paid Kshs.913,900 in sitting allowances, was signed for by other members without written authority from him although it was explained that he is visually impaired.

Consequently, the propriety of payment of Kshs.913,900 for the year could not be ascertained.

5.0 Governance Framework

5.1 IT Internal Control Environment

As reported in the previous year, a review of the Information and Communication Technology (ICT) of the County Assembly revealed that the Assembly had not established IT steering committee to provide direction on IT matters, which is important in performing the oversight function and formulation of policies to ensure that IT department functions assist in achievement of organizational objectives in an economic, efficient and effective way. In addition, there was non-implementation of some of the following provisions of the ICT Policy: the policy recommends that the Anti-Virus software be updated every fortnight, it makes provision for staff to have unique e-mail addresses, creation of an office intranet and creation of an ICT Department with an ICT Manager.

Consequently, IT assets of the County Assembly may not be efficiently utilized and the operations of the Assembly may be hampered in the event of a disaster.

6.0 Acquisition of Assets

6.1 Delay in Projects Implementation

6.1.1 Construction of the Cafeteria

As reported in the previous year, included in the acquisition of assets figure of Kshs.9,563,616 reflected in the statement of receipts and payments is an amount of Kshs.4,163,700 paid to a contractor in respect of the construction of the cafeteria for the second phase. It was noted that the County Assembly opted to construct the cafeteria in stages. The first phase was awarded to a Construction Company Ltd. on 12 May 2014 at a contract sum of Kshs.6,759,412. The contract sum was later varied by an amount of Kshs.1,603,134. However, the management did not provide approval of this variation. The second phase was awarded to an Enterprises at a contract sum of Kshs.9,634,651 and was to commence on 12 April 2016, for a period of eight (8) weeks with expected completion date being 11 June 2016. A physical verification of the project on 22 November 2017, revealed that the project had not been completed and was behind schedule by seventeen (17) months although the contractor was on site.

The delay in the execution of the project is likely to result in cost escalation of the project.

6.1.2 Provision of Landscaping Works

Included in the acquisition of assets figure of Kshs.9,563,616 reflected in the statement of receipts and payments is an amount of Kshs.987,500 paid to an Engineering firm. The provision of landscaping works was awarded to this firm at a contract price of Kshs.1,399,575, which was to start on 4 May 2016, with a contract period of eight (8) weeks and estimated completion dated on 4 July 2016. A physical verification of the project on 22 November 2017, revealed that the project had been not been completed and was behind schedule for sixteen (16) months. The management has not explained the reasons for the delay in completing the project. The delay in the execution of the project is likely to result in cost escalation of the project. As a result of this, the objectives of the project have not been achieved and the County Assembly did not obtain value for money for the total expenditure of Kshs.987,500 so far incurred on the project for the year ended 30 June 2017.

6.1.3 Construction of a Car Park

The acquisition of assets figure of Kshs.9,563,616 also includes an amount of Kshs.580,800 paid to a construction firm for the construction of a car park at contract price of Kshs.748, 800. The work was to start on 6 November 2015, with a contract period of 60 days and estimated completion on 6 January 2016. A physical verification of the project on 22 November 2017, revealed that the project had not been completed despite being late by 23 months. The delay in the execution of the project is likely to result in cost escalation of the project.

Consequently, the County Assembly did not obtain value for money for the expenditure of Kshs.580,800 so far incurred on the project.

6.2 Kitchen Equipment

As reported in the previous year, the County Assembly procured kitchen equipment and furniture worth Kshs.3,649,568 and Kshs.3,260,000 respectively, all totalling Kshs.6,909,568 in the year 2015/2016 for use in the cafeteria. However, as reported in the previous year the cafeteria where the equipment was supposed to be used/installed is still incomplete. A physical verification done 22 November 2017 revealed that items purchased were still in the store and had not been installed and were not being used and continue to depreciate. It is apparent that the County Assembly did not get value for money for this expenditure. The procurement was therefore done without any specific user requirement and the expenditure of Kshs.6,909,568 arising from their procurement was unnecessary.

6.3 Inherited Assets

The statement of receipts and payments reflects acquisition of assets balance of Kshs.9,563,616 for the year ended 30 June 2017 as disclosed in annex 4 summary of fixed assets register. However, as previously reported, the County Assembly inherited assets from the defunct Iten Town Council but there was no report showing the assets

handed or taken over. Consequently, the accuracy and completeness of the statement of financial assets and liabilities as in the annex of the summary of fixed assets register could not be ascertained.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

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 such 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.

In preparing the financial statements, management is responsible for assessing the County Assembly's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the going concern basis of accounting unless the management either intends to cease operations or have no realistic alternative but to do so.

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.

Those charged with governance are responsible for overseeing the County Assembly's financial reporting process.

Auditor-General's Responsibilities for the Audit of the Financial Statements

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 of Kenya. 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.

As part of an audit 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.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for the purpose of giving an assurance on the effectiveness of the County Assembly's 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 going concern 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.
- Perform such other procedures as I consider necessary in the circumstances.
- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities to express an opinion on the financial statements.

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 Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

16 July 2018