REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF MARSABIT FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

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

In my opinion, except for the effects of the matter 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 Executive of Marsabit 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. Un-updated Land Rate Records

As disclosed under Note 3 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2019 reflects county own generated revenue of Kshs.118,848,396. The balance includes land transaction charges amounting to Kshs.5,818,502. However, records maintained by Management revealed that nine (9) registers used for collection and recording of land rates were not updated while the rates due were not indicated in the registers.

In the circumstances, the accuracy of land transaction charges amounting to Kshs.5,818,502 for the year ended 30 June, 2019 could not be confirmed.

2. Use of Two Systems in Compensation of Employees

As disclosed under Note 3 to the financial statements, the statement of receipts and payments reflects compensation to employees balance of Kshs.2,316,938,457. However, examination of records revealed that the Management operated two (2) payroll systems, the manual payroll system and the Integrated Payroll and Personnel Database (IPPD).

Further, Management paid an amount of Kshs.112,900,408 to four hundred (400) Early Childhood Development Education (ECDE) employees through the manual payroll but did not provide satisfactory reasons for not paying all its employees using the IPPD during the year under review.

In the circumstances, the validity and accuracy of compensation to employees amounting to Kshs.112,900,408 could not be ascertained.

3. Unsupported Expenditure - Use of Good and Services

As disclosed under Note 6 to the financial statements, the statement of receipts and payments reflects use of goods and services amounting to Kshs.1,270,407,630. Examination of records revealed that an amount of Kshs.1,475,000 under utilities, supplies and services was expended on the supply of solar power system and delivery of water to rural health facilities. However, Management did not provide for audit review, the supporting documents including the user requisitions, Inspection and acceptance minutes, delivery notes and list of beneficiaries.

Further, an amount Kshs.2,983,250, was spent on domestic travel and subsistence through issuance of imprests but the Management did not avail supporting documents such as imprest warrants, invitation letters, back to office reports, work tickets/bus tickets as well as minutes of proceedings and the hiring of venues. Similarly, an amount of Kshs.1,874,000 was incurred for evaluating, registration and pre-qualification of suppliers for tenders. The event was carried out in Nairobi contrary to the National Treasury Circular number 20/2015 dated 4 November, 2015 which requires all Accounting Officers to ensure that all workshops and retreats with majority of the participants drawn from one duty station are held from the precincts of the duty station.

In addition, an amount of Kshs.15,289,461 was paid to two (2) suppliers for the purchase of fuel, oil and lubricants. However, Management did not avail supporting documents such as fuel registers, copies of detail orders and motor vehicle work-tickets for audit review.

In the circumstances, the accuracy, completeness and validity of use of goods and services of Kshs.1,270,407,630 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

4. Unsupported Expenditure - Acquisition of Assets

As disclosed under Note 10 to the financial statements, the statement of receipts and payments for the year ended 30 June, 2019 reflects acquisition of assets of Kshs.3,118,063,108. However, a review of the expenditure revealed the following unsatisfactory matters:

4.1. Refurbishment of Buildings

The balance constitutes expenditure amounting to Kshs.7,708,632 in respect refurbishment of buildings which includes an expenditure of Kshs.1,789,110 paid to four (4) suppliers in respect to refurbishment of buildings. However, Management did not avail supporting documents for audit review such as procurement records and payment vouchers containing full details, clear narrations, particulars of the items to which they related and the appropriate authority.

4.2. Construction and Civil Works

Further, the above balance of Kshs.3,118,063,108 includes an amount of Kshs.1,527,730,954 expended on construction and civil works out of which an amount of Kshs.12,270,840 was spent on the supply and delivery of vaccines, fishing nets and drugs but Management did not provide supporting documents such as quality, viability and quantity of the drugs and vaccines supplied, user's requisitions, list of beneficiaries and training programme reports for audit review. A further Kshs.8,388,444 was spent on the supply and delivery of four thousand (4,000) kilograms of grass seeds, five thousand (5,000) tree seedlings, four (4) ten thousand (10,000) litres plastic tanks. However, the test report to ascertain the viability and quality of the seeds, suitability for the soils and the beneficiaries were not provided for audit review.

4.3. Purchase of ICT Equipment

In addition, an amount of Kshs.3,499,700 was utilized under purchase of ICT Equipment, spent on purchase and supply of Internet Protocol (IP) phones. However, the quotations provided for audit review, did not include the detailed specification of the IP phones. An additional amount of Kshs.1,600,000 was spent on installation of earthing of County Headquarters' local area network (LAN) but completion certificates were not provided for audit review. During a physical verification carried in the month of September, 2019, it was observed that the IP phones and LAN infrastructure installed in the ground floor and 1st floors of the County Headquarters' offices were not functional.

4.4. Rehabilitation and Renovation of Plant and Machinery

The County Executive also expended an amount of Kshs.14,827,520 under rehabilitation and renovation of plant machinery and equipment out of which Kshs.1,755,544 was used for the renovation of El-Molo Bay dispensary. However, quotations, evaluation minutes and certificate of completion were not provided for audit review.

In the circumstances, the accuracy, completeness and validity of acquisition of assets of Kshs.3,118,063,108 reflected in the statement of receipts and payments for the year ended 30 June, 2019 could not be confirmed.

5. Unsupported Expenditure - Other Current Transfers

The statement of receipts and payments reflects other grants and payments of Kshs.548,972,855 as disclosed under Note 8 to the financial statements. The balance includes Kshs.1,695,000, under other current transfers and grants, paid to an officer as a reimbursement for a two (2) day peace meeting held in Moyale Sub-County. However, Management did not explain why the expenditure was charged to other current transfers and grants instead of domestic travel and subsistence. In addition, Management did not provide supporting documents such as approved budget or plan availed for the exercise, communication to the stakeholders, chiefs or other government offices involved notifying them of the meeting to be held and the venue.

In the circumstances, the propriety and value for money of the Kshs.1,695,000 expenditure for the year ended 30 June, 2019 could not be ascertained.

6. Unsupported Clearance of Pending Bills

Note 1 to the other important disclosures in the financial statements shows that the pending bills reduced from Kshs.778,609,328 as at 30 June, 2018, additional for the year of Kshs. 560,822,786, and paid during the year of Kshs.902,399,832 resulting to pending bill amounting to Kshs.437,032,280 as at 30 June, 2019. However, records in respect of the additional bills, bills paid during the year and closing balance for the year were not supported with payment vouchers, invoices, certificates of completion and procurement documents.

Further, among the bills discharged includes bills amounting to Kshs.85,913,805 which constitutes the following unsatisfactory matters.

i) An amount of Kshs.80,098,805 was paid to several suppliers /contractors. However, supporting documents including contract agreements, bills of quantities, local purchase/service orders, engineer's estimates, certificates of completion, quotations, evaluation minutes, tender documents and contract award notifications were not provided for audit review.

ii) Further, an amount of Kshs.3,015,000 in respect to supply and delivery of laboratory equipment to Karare Health Centre. However, the laboratory in which the items were to be kept and operated from had not been completed as at the time of audit verification in September, 2019 and the items had not been put to use more than a year after delivery.

iii) In addition, the Management paid Kshs.2,800,000 in respect of connection and fitting of 50 meters deep gravity pipeline. However, a physical verification done in September, 2019 revealed that the pipeline had already been vandalized and thirty (30) pipes were missing making the project idle.

Consequently, the accuracy and validity of the pending bills balance of Kshs.437,032,280 as at 30 June, 2019 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Marsabit Management 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. There were no key audit matters to report in the year under review.

Other Matter

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on financial statements, lawfulness and effectiveness in use of public resources and Effectiveness of internal control, risk management and governance. Management has not resolved the issues and has not indicated the current status or provided any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: PSASB/1/12 Vol.1(44) of 25 June, 2019.

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 Conclusion on Lawfulness and Effectiveness in 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. Project Implementation Report

During the year under review, the approved development budget reflects an amount of Kshs.4,421,964,442. The project implementation status report availed for audit verifications indicates that the County Executive initiated 896 projects valued at Kshs.3,582,144,301 out of which six hundred and sixty-five (665) projects with a budget of Kshs.2,745,253,551 were complete, one hundred and seventy-six (176) projects with a budget of Kshs.599,103,143 were partially complete while fifty-five (55) projects with a budget of Kshs.237,787,607 had not started.

Further, physical verification of a sample of fifty-one (51) projects revealed that forty-five (45) projects with a contract value of Kshs.194,027,475 had been completed and operational, two (2) projects with a contract value of Kshs.10,400,000 were completed and not in use while four (4) projects with a total cost of Kshs.88,400,000 were on-going.

In the circumstances, the residents of Marsabit County did not therefore get the expected value for money from budgeted projects that had not started and projects that were ongoing during the year under review.

2. Operating Commercial Bank Accounts Without Approval

Note 11A to the financial statements reflects a balance of Kshs.732,196,336 held in nine (9) bank accounts which includes two (2) commercial banks accounts with bank balances totalling to Kshs.92,350,657. The opening and operating of accounts in commercial banks, is contrary to Section 82(1) (b) of the Public Finance Management (County

Governments) Regulations, 2015 which stipulate that all County Government bank accounts should be opened at Central Bank of Kenya except for imprest account for petty cash.

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

3. Failure to Enact the Marsabit County Executive Finance Act, 2018

Section 133 of the Public Finance Management Act, 2012 stipulates that the County Assembly should consider and approve the County finance bill not later than ninety days after passing the Appropriation Bill. However, Management has continued to rely on the Marsabit County Finance Act, 2016 to collect the fees, taxes, tariffs and cess for the last two (2) years. The Management did not enact the Marsabit County Finance Act, 2018 which would have guided the revenue collecting measures for the year ended 30 June, 2019. This is contrary to Section 133 of the Public Finance Management Act, 2012.

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

4. Compliance with the Public Procurement and Assets Disposal Act, 2015

4.1 Supply and Delivery of Printing Equipment

During the year under review, the Management made payments amounting to Kshs.1,084,000 for supply and delivery of printing equipment. Examination of records revealed that the tender opening was done three (3) months after the deadline for submission of quotations contrary to Section 78(3) of the Public Procurement and Asset Disposal (PPAD) Act, 2015 which stipulates that the opening of tenders should be done immediately after the deadline of submission of tenders. Two (2) printing machines, three (3) computer printers and four (4) laptops were supplied without the inspection and acceptance reports while stores records were not provided for audit review.

4.2 Supply of Foodstuffs

Further, the County Executive spent an amount of Kshs.2,000,000 on supply of foodstuffs and cleaning detergents for children's homes in the County. However, the requisition forms were signed on 8 March, 2019 and the quotations were opened on 14 March, 2019. However, the tender evaluation was done on 8 March, 2019 which is six (6) days prior to opening of the quotations. Further, the professional opinion was issued on 11 March, 2019 and the award letter was issued on 12 March, 2019 which is three (3) and two (2) days respectively prior to opening of tenders. This was contrary to Sections 78 to 87 of the Public Procurement and Asset Disposal Act, 2015, which outlines the procurement process. The list of the beneficiaries together with their allocations, report from the Department of Tourism and Culture outlining the need, inspection and acceptance committee minutes, motor vehicle work tickets, stores records, disbursement schedules and beneficiaries' acknowledgement were not provided for audit review.

4.3 Construction of Buildings

During the year under review, the County Executive made payments amounting to Kshs.7,383,012 spent on the completion of North-Horr Health Centres and renovations of temporary pit latrine and bathroom at Bongolle Resort respectively. However, the winning bidders were not included in the list of registered suppliers, contrary to Section 95(3) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that a procuring entity shall invite tenders from only the approved persons who have been pre-qualified. The works were procured using request for quotations rather than open tender contrary to the first Schedule of threshold matrix of the Public Procurement and Asset Disposal Regulations 2015, which caps the use of quotations to Kshs.4,000,000 for works. The procurement plan did not specify the works as it was generalized as construction of buildings. It was therefore, not possible to ascertain whether the County Executive had planned for the works in their procurement plan.

4.4 Construction of Roads

The Management made payments amounting to Kshs.4,999,548 on spot improvement works on the road from Jaldesa Bante-Malka Godhana-Babako Jaldesa-Kukub Tiro-Boru Haro. However, requisition for the works was made on 22 January, 2019 and the contract agreement signed on 21 February, 2019 while the appointment of the evaluation committee was done on 15 January, 2019 which is practically not possible as the committee appointment is alleged to have been done seven (7) days before requisition for work. The technical evaluation lacked the ranking scores for the bidders thus rendering it impossible to ascertain how the tender committee awarded the tender.

Further, during project verification on September, 2019, it was noted that although the Bill of Quantities (BQs) provided for twenty-four (24) meters of culvert, seventeen (17) drifts and eight (8) slabs, the contractor laid only eight (8) meters of the culvert and substituted the works for seventeen (17) drifts and eight (8) slabs with three (3) kilometers gravelling contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015, in which variation is only allowed in pricing and the quantity of goods or works supplied and does not include substitution of works to be done or type of goods to be supplied.

4.5 Construction and Civil Works

The County Executive also made payments amounting to Kshs.7,000,000 on the procurement of a generator. However, request for quotation was used instead of open tender contrary to the First Schedule of the Public Procurement and Asset Disposal Regulations, 2015 which limits the use of quotations to Kshs.2,000,000 for goods. A review of the procurement process revealed that the supplier was not competitively sourced as two (2) of the three (3) bidders were not included in the list of registered suppliers. The existence of the three-bidding companies could not be ascertained as their bio-data and certificates of incorporation were not provided for audit review.

Further, the County Executive expended an amount of Kshs.3,000,000 on equipping of Bura Boreholes with powered overheads. However, the facility was not included in the procurement plan contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal (PPAD) Act, 2015 which stipulates that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan. In addition, the inspection committee minutes, and completion certificates from the department of works were not provided for audit review.

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

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 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 overall governance were not effective.

Basis for Conclusion

1. Understaffing of Internal Audit Department

A review of the Human Resource records revealed that the Internal Audit Department had only two (2) staff members during the year under review. This situation has hampered the efficient, effective and adequate execution of audit objectives. The coverage for the County Executive which has over ten departments is also greatly compromised.

Consequently, the effectiveness of the internal control measures through a well-resourced internal audit function put in place by Management is inadequate and ineffective to oversee and support the County operations.

2. Lack of Risk Management Policy

Management did not have Risk Management Policy during the year under review. The Internal Audit Department could not provide reasonable assurance through the Audit Committee on the state of risk management, control and governance within the organization.

In the circumstances, the effectiveness of the County Executive internal control and risk management during the year ended 30 June, 2019 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 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 Executive's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the 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 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 Executive 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 overall 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 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 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 aboutwhether, 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 overall 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 the applicable basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the County Executive's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the County Executive to cease to 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 Executive 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.

Nancy Gathungu
<u>AUDITOR-GENERAL</u>

Nairobi

07 April, 2021