

REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF ELGEYO/ MARAKWET FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Elgeyo/Marakwet County Assembly set out on pages 1 to 35, which comprise the statement of financial assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts - 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 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, 2020, 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. Unexplained Differences Between Financial Statements and Ledger Balances

Several account balances reflected in the financial statements differ with identical account balances reflected in the Integrated Financial Management Information System ledger as at 30 June, 2020. The balances relate to receipts, payments, cash and cash equivalents, account payables-deposits and the fund balance, as shown in the attached Appendix .

In view of the discrepancies, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

2. Unconfirmed Balances

2.1 Foreign and Domestic Travel and Subsistence

The statement of receipts and payments reflects use of goods and services expenditure totalling Kshs.229,475,916 as further disclosed in Note 5 to the financial statements. The balance includes Kshs.21,105,229 spent on foreign travel and subsistence which in turn includes payments totalling Kshs.9,048,751 made to various officers of the County

Assembly for use in foreign travel and subsistence. The use of goods and services balance also includes Kshs.2,957,400 spent by officers on domestic travel and subsistence.

In both instances, the officers were issued with cash which they immediately expensed, contrary to Regulation 91(1) and Regulation 93(3) of the Public Finance Management (County Governments) Regulations, 2015. The Regulation requires such expenses to be incurred through imprests that the respective payees account for.

Expenditure records indicated that similar payments totalling Kshs.2,767,000 were made to the Members of the County Assembly to enable them write reports in Eldoret and Kisumu.

In view of lack of sufficient records on how the cash issued to the payees was spent, the propriety of the expenditure totaling Kshs.21,006,151 could not be confirmed.

2.2 Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance totalling Kshs.1,158,659 as at 30 June, 2020 which includes a bank balance of Kshs.1 for a bank account operated with a local commercial bank.

However, the bank certificate and the bank reconciliation statement for the account as at 30 June, 2020 reflected a bank balance of Kshs.584,666 resulting in an unexpected variance of Kshs.584,665 between the two sets of records.

Consequently, the accuracy and completeness of cash and cash equivalents balance totalling Kshs.1,158,659 as at 30 June, 2020 could not be confirmed.

2.3 Assets and Liabilities from the Defunct Local Authorities

Annex 4 to the financial statements reflects a summary register of fixed assets that in turn reflects assets with a historical value of Kshs.185,125,859 as at 30 June, 2020. However, the balance does not include the values of fixed assets taken over from defunct local authorities in the County. The assets, which included land, buildings, motor vehicles, office equipment, furniture and fittings were in use by the County Assembly in the year under review.

Consequently, the accuracy and completeness of the summary of fixed assets register balance totalling Kshs.185,125,859 as at 30 June, 2020 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Elgeyo Marakwet County Assembly 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

1.0 Budgetary Control and Performance

The expenditure budget for the County Assembly in the year under review totalled Kshs.537,872,797 comprising of development vote of Kshs.1,028,790 and recurrent vote of Kshs.536,844,007. Overall, the budget absorption rate was good as only Kshs.106,636 was unutilized at the end of the financial year.

Item	Budgeted Amount Kshs.	Actual Amount Kshs.	Under-Absorption Kshs.
Development	1,028,790	1,028,790	0
Recurrent	536,844,007	536,737,371	106,636
Total	537,872,797	537,766,160	106,636

2.0 Progress on Follow-up of Prior Year Audit Issues

Note 7 of Other Disclosures indicates that issues raised in the audit reports for the previous year had not been resolved as at 30 June, 2020. No explanation has been provided for the failure to resolve the issues.

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. Lack of Ethnic Diversity in Staff Establishment

Human resource records examined indicated that during the year under review, the County Assembly had seventy (70) permanent employees out of whom sixty-eight(68) or 97% were from the dominant community in the County. Therefore the establishment does not conform to Section 7(1) of the National Cohesion and Integration Act No.12 of 2008 which requires all public establishments to seek to represent the diversity of the people of Kenya in the employment of staff.

2. Irregular Expenditure on Meetings and Retreats

Expenditure records indicated that per diem totalling Kshs.4,448,500 were issued to Members of the County Assembly and other staff for use in retreats and other consultative meetings held in various towns.

Similarly, records on operating expenses indicated that Kshs.2,767,000 was paid to the Members of County Assembly as per diems to enable them write reports and conduct meetings in Eldoret and Kisumu which could have been conducted within the County.

The meetings and retreats were held contrary to the National Treasury Circular No.20/2015 of 4 November, 2015 that banned out of station events to discuss strategy documents, consultants' reports, or for any other assignments that would ordinarily be done in local offices.

3. Excessive Spending on Personnel Emoluments

The statement of receipts and payments for the year ended 30 June, 2020 reflects payments for compensation of employees' totalling Kshs.283,385,576 and social security benefits totalling Kshs.13,045,098. The expenditure on the two items totalled Kshs.296,430,674 equivalent to 55% of the total County Assembly revenue totalling Kshs.537,766,161 and thus exceeded the ratio of 35% stipulated under Regulation 25(1) of the Public Finance Management (County Governments) Regulations, 2015.

Excessive spending on wages and benefits may result in underfunding of operational and developmental activities of the County Assembly and constrain its capacity to carry out its legislative and oversight roles.

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. Inadequate Control on Payment Vouchers

Sampling of payments processed through the Integrated Financial Management Information System (IFMIS) in the year under review detected 42 missing payment voucher numbers. No satisfactory explanation was provided by Management for the anomaly. There is therefore risk of loss of public funds or misstatement of expenditure balances should the un-serialized payment vouchers be used to process payments.

2. Lack of a Risk Management Policy

Audit review of the control environment in the year under review indicated that the County Assembly did not have a risk management policy and business recovery or continuity plan. As a result, Management did not have means to objectively identify, measure and mitigate risks to the operations of the County Assembly. Further, the operations of the County Assembly could be severely disrupted should adverse events.

3. Ineffective Internal Audit Function

The audit revealed that the Internal Audit Unit did not prepare a risk-based audit plan for the year under review. In addition, the Unit did not have an Internal Audit Charter detailing the scope, responsibilities and purpose of the internal audit function. Further, the Unit was understaffed as it had only two staff members out of the eight provided for in the approved establishment.

Similarly, the Audit Committee had only one member and as a result, it did not hold any meeting in the year under review. Consequently, audit findings were not discussed by the Committee and no recommendations were issued to correct the shortcomings highlighted in audit reports.

As a result of the weak Internal Audit function and Audit Committee, oversight and governance in management of public resources in the County Assembly was weak. As a result, the risk of irregular and ineffective use of the resources was high.

4. Ineffective Information Technology Steering Committee

Review of the operational systems further indicated that although Management had established an Information Technology (IT) Steering Committee, there was no evidence that the Committee met during the year under review. Therefore, policies on use of IT may not be properly established or effective.

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 processes and systems of internal control, risk management and 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 ability of the County Assembly 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 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 entity 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's 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 ability of the County Assembly 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 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.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

08 December, 2021

Appendix

Unexplained Differences Between Financial Statements and Ledger Balances

Item	Financial Statements Kshs.	IFMIS Ledger Reports Kshs.	Difference Kshs.
Receipts			
Transfers from County Treasury/Exchequer Releases	537,766,161	-	(537,766,161)
Payments			
Use of Goods and Services	229,475,916	229,741,006	265,090
Financial Assets			
Cash and Cash Equivalents			
Bank Balances	1,158,659	(2,746,866)	(1,588,207)
Cash Balances	-	2,066,365,069	(2,066,365,069)
Financial Liabilities			
Accounts Payables-Deposits	(1,158,658)	3,054,180,845	3,053,022,187
Represented by			
Fund Balance Brought/Forward	153,232	(452,526,392)	(452,373,160)
Surplus/Deficit for the year	1	(538,036,250)	(538,036,249)
Net Financial Position	1	(990,562,641)	(990,562,640)