

REPORT OF THE AUDITOR-GENERAL ON ELGEYO MARAKWET COUNTY EXECUTIVE CAR AND MORTGAGE REVOLVING FUND FOR THE YEAR ENDED 30 JUNE, 2021

PREAMBLE

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

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Elgeyo Marakwet County Executive Car and Mortgage Revolving Fund set out on pages 16 to 54, which comprise of the statement of financial position as at 30 June, 2021, and the statement of financial performance, statement of changes in net assets, 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 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 Elgeyo Marakwet County Executive Car and Mortgage Revolving Fund as at 30 June, 2021, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Accrual Basis) and comply with the Elgeyo Marakwet County Executive Car and Mortgage Loan Revolving Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

Undisclosed Related Party Transactions

The statement of financial position reflects long term receivables from exchange transactions balance of Kshs.110,010,192 which includes Kshs.16,315,210 due from Key Management and Fund Administration Committee members. However, these balances have not been disclosed in Note 22 on related party transactions contrary to International Public Sector Accounting Standards (IPSAS) 20 which requires disclosures about transactions and outstanding balances with related parties.

In the circumstances, the fair presentation and disclosure of the financial statements could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Elgeyo Marakwet County Executive Car and Mortgage Revolving Fund 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

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual receipts on a comparable basis of Kshs.4,000,000 and Kshs.3,745,231 respectively, resulting to an under-funding of Kshs.254,769 or 6% of the budget. Similarly, the Fund expended Kshs.1,834,244 against an approved budget of Kshs.4,000,000 resulting to an under-expenditure of Kshs.2,165,756 or 54% of the budget.

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

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

1.0 Unsecured Loans

Review of documents provided for audit revealed that a borrower was advanced Kshs.1,170,000 for purchase of a motor vehicle. However, no evidence was provided to confirm that the vehicle was comprehensively insured contrary to Section 24 (1) of the Elgeyo-Marakwet County Executive Car and Mortgage Revolving Fund Act, 2015. Further, two (2) officers with outstanding loan balances of Kshs.2,357,879 and Kshs.7,511,906 totalling to Kshs.9,869,785 were awarded loans before their title deeds were charged. Therefore, the Fund had unsecured loans amounting to Kshs.9,869,785.

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

2.0 Fringe Benefit Tax

Analysis of loans advanced to beneficiaries revealed that the County Executive Management did not pay Fringe Benefit Tax (FBT) to Kenya Revenue Authority on loans amounting to Kshs.31,679,706 contrary to Section 12B of the Income Tax Act Cap 470 Laws of Kenya.

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

3.0 Unsupported Award of Mortgage Loans

The statement of financial position reflects long term receivables from exchange transactions balance of Kshs.110,010,192 which includes loans amounting to Kshs.31,679,706 issued to existing and new borrowers for construction and renovation works. However, review of records revealed that the awards were not supported with copies of the designs of the proposed residential properties, bill of quantities (BQ) and certified copies of sale agreements. This is contrary to Section 16(1) of the Elgeyo Marakwet County Executive Car and Mortgage Revolving Funds Act, 2015.

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

4.0 Stamp Duty and Other Legal Costs

The statement of financial position reflects long term receivables from exchange transactions balance of Kshs.110,010,192 which includes Kshs.3,273,908 and Kshs.7,344,982 issued to two (2) beneficiaries. However, review of loan records provided revealed that the borrowers did not pay stamp duty and legal costs contrary to Section 16 (2) of the Elgeyo Marakwet County Executive Car and Mortgage Loan Revolving Fund Act, 2015.

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

5.0 Non-Performing Loans

The statement of financial position reflects long term receivables from exchange transactions balance of Kshs.110,010,192 as disclosed in Note 11 to the financial statements which includes non-performing loans of Kshs.20,756,098 from eight (8) borrowers. Further, no efforts have been made to recovery the non-performing loans contrary to Section 29(1) of the Elgeyo Marakwet County Executive Car and Mortgage Loan Revolving Fund Act, 2015.

In the circumstances, Management was 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, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

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

Responsibilities of Management and those Charged with Governance

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

In preparing the financial statements, Management is responsible for assessing the Fund's ability 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 terminate the Fund 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 Fund's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

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 controls 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 controls would not necessarily disclose all matters in the internal controls 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 controls 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 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 controls.
- 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 Fund'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 Fund 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 Fund 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 controls 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.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

09 September, 2022