

## **REPORT OF THE AUDITOR-GENERAL ON SAMBURU COUNTY EXECUTIVE STAFF MORTGAGE (MEMBERS) SCHEME 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 Samburu County Executive Staff Mortgage (Members) Scheme Fund set out on Pages 17 to 71, which comprise 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 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 Samburu County Executive Staff Mortgage (Members) Scheme Fund as at 30 June, 2021, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Public Finance Management Act, 2012.

## **Basis for Qualified Opinion**

### **1. Doubtful Long-Term Receivables from Exchange Transactions**

Note 12 to the financial statements reflects receivables from exchange transactions balance of Kshs.254,961,518 as at 30 June, 2021, and which includes loans amounting to Kshs.230,000,000 disbursed to County Executive Members, Chief Officers, Chief of Staff, Governor Political Advisor and Members of County Public Service Board. Review of the loans revealed that the outstanding loans comprises of an amount of Kshs.10,687,449 relating to members who had not deposited any collateral and their employment terms were already terminated. Further, although the recoverability of the loans is doubtful, Management had not made a provision for doubtful debts in the financial statements.

In addition, the loans were amortized for a period of twenty (20) years instead of the number of months to the end of the term of employment or lapse of employment contract of the respective borrowers as required by Regulation 13 of the Public Finance Management (Samburu County Executive Staff Mortgage Scheme Fund) Regulations, 2016, which provides that a loan granted under these regulations shall be fully repaid at the end of the maximum period a member is eligible for.

In the circumstances, the accuracy, recoverability and regularity of loans balance of Kshs.10,687,449 as at 30 June, 2021 could not be confirmed.

### **2. Unsupported Borrowings by the County Executive**

The statement of financial position as at 30 June, 2021 reflects borrowings of Kshs.16,300,000 and as disclosed under Note 13 to the financial statements being outstanding loans balance lent out to the Samburu County Executive. However, review of the loans revealed that the amount represents cash withdrawals from the fund account whose supporting documentation on how the funds were applied were not provided.

Further, the borrowing by the County Executive was not supported by County Assembly approval and acknowledgement of funds by County Treasury contrary to Section 142(1) of the Public Finance Management Act, 2012 which requires county government entities to seek the authority of the County Assembly to borrow cash on a short-term basis for cash management purposes only. In addition, the amount was not repaid within the financial year in line with Section 142(3) of the Public Finance Management Act, 2012

which provides that a county government entity that has any such borrowing shall ensure that the money borrowed is repaid within a year from the date on which it was borrowed.

In the circumstances, the accuracy and regularity of borrowings of Kshs.16,300,000 as at 30 June, 2020 could not be confirmed.

### **3. Incomplete Statement of Comparison of Budget and Actual Amounts**

Samburu County Executive Staff Mortgage (Members) Scheme Fund Management did not provide an approved budget for the year ended 30 June, 2021 for audit review contrary to Regulation 99(2) of the Public Finance Management (County Governments) Regulations, 2015 which provides that an approved estimate of expenditure shall form the basis of the accounts for the financial year. Further, the Fund's financial statements did not reflect any amounts in the statement of comparison of budget and actual amounts for the period year ended 30 June, 2021. This is contrary to the format prescribed by the Public Sector Accounting Standard Board (PSASB) and in accordance with Regulation 101(4) of the of the Public Finance Management (County Governments) Regulations, 2015 which provides an Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board.

In the circumstances, the financial statements as prepared and presented do not comply with the requirements of International Public Sector Accounting Standard 1 and the format prescribed by the Public Sector Accounting Standard Board for the year ended 30 June, 2021.

### **4. Incorrect Name of the Fund in the Financial Statements**

The financial statements provided for audit states the name of the Fund as "Samburu County Executive Mortgage Scheme Fund". However, Section 3 of the Public Finance Management (Samburu County Executive Staff Mortgage Scheme Fund) Regulations, 2016 has defined the Fund as Samburu County Executive Staff Mortgage (Members) Scheme Fund. Management did not explain the inconsistencies.

In the circumstances, the name of the Fund in the financial statements for the year ended 30 June, 2021 was not consistent with the enabling law.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Samburu County Executive Staff Mortgage (Members) Scheme 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.

## 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. Long-Term Receivables from Exchange Transactions

##### 1.1 Uncharged Properties Financed through Loans

The statement of Financial Position as at 30 June, 2021 reflects long-term receivables from exchange transactions balance of Kshs.254,961,518 comprising of total current receivables of Kshs.21,522,861 and total non-current receivables of Kshs.233,438,657 respectively and as disclosed in Note 12 to the financial statements. However, review of records revealed that the properties financed through the loans were not charged. This is contrary to Section 15(1) of the Public Finance Management (Samburu County Executive Staff Mortgage Scheme Fund) Regulations, 2016, which requires that the Fund Committee may have a charge registered on the property financed through a loan granted under these regulations and shall be entitled to have its name entered in all documents of the title for such property.

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

##### 1.2 Lack of Mortgage Protection and Fire Policy with an Approved Insurance Firm

The mortgage loans granted to members did not have a mortgage protection and fire policy with an approved insurance firm. This is contrary to Regulation 16(1) of the Public Finance Management (Samburu County Executive Staff Mortgage (Members) Scheme Fund) Regulations, 2016, which requires that a borrower shall take out and maintain a mortgage protection policy and a fire policy with an insurance firm approved by the Committee, the cost of which shall be borne by the borrower.

In the circumstances, the Scheme is exposed to loss of funds in the event a disaster and in addition Management was in breach of the law.

##### 1.3 Weaknesses in Loan Processing Procedures and Records Management

Note 12 to the financial statements reflects receivables from exchange transactions balance of Kshs.254,961,518 as at 30 June, 2021, which includes loans issued to County Executive staff amounting to Kshs.110,000,000 for which the loan application files were

not provided for audit review. Further, review of loan applications files presented for audit revealed instances of lack of mandatory documents specified in Regulation 10(1) of the Public Finance Management (Samburu County Executive Staff Mortgage Scheme Fund) Regulations, 2016, which provides that an application for a loan shall be accompanied by the following documents where appropriate;

- a) Copies of the designs of the proposed residential property duly approved by the department of public works within whose area it is situated.
- b) Bills of Quantities in respect of the proposed development, renovation or repair.
- c) An official search of the Title to the Property intended to be purchased.
- d) A certified copy of the sale agreement relating to the property.

In addition, review of attached land ownership documents for loans disbursed of Kshs.38,000,000 revealed that the respective plot numbers could not be traced to the plots register maintained by the County Government of Samburu.

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, except for the matter 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 governance were not effective.

### **Basis for Conclusion**

#### **Lack of a Risk Management Policy**

The Samburu County Executive Staff Mortgage (Members) Scheme Fund did not have a risk management policy contrary to Regulation 158(1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the accounting officer to develop risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations.

In the circumstances, it was not possible to confirm whether the internal controls in financial and operational environment were effective and Management was also in breach of the law.

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 (Accrual 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 Fund'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 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 the 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 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. 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 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 Fund'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 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 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 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 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.



**CPA Nancy Gathungu, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**19 July, 2022**