

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF ELGEYO MARAKWET FOR THE YEAR ENDED 30 JUNE, 2022

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 County Executive of Elgeyo Marakwet set out on pages 1 to 52, which comprise the statement of assets and liabilities as at 30 June, 2022, 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, 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 County Executive of Elgeyo Marakwet as at

30 June, 2022, and 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. Variance Between Financial Statements and IFMIS Records

Balances for several accounts reflected in the financial statements, differ with those reflected in the Integrated Financial Management Information System (IFMIS) ledger in relation to identical accounts. No reconciliations were provided by Management for the variances as detailed below;

Item Description	Financial Statements Amounts (Kshs.)	Amounts as per IFMIS Records (Kshs.)	Variance (Kshs.)
Exchequer Releases	4,588,451,226	372,256,692	4,216,194,534
Other grants and transfers	78,149,877	77,910,977	238,900
Bank Balances	455,836,241	9,346,641,177	8,890,804,936
Cash in Hand	-	2,125,024,856	2,125,024,856
Accounts Receivables - Outstanding Imprest and Clearance Accounts	-	13,395,992	13,395,992
Accounts Payable - Retention Money	93,032,849	83,845,852	9,186,997

In the circumstances, the accuracy, completeness and regularity of the respective balances and the financial statements could not be confirmed.

2. Un-supported Expenditure

Statement of receipts and payments reflect other grants and transfers of Kshs.78,149,877 which includes Scholarships and other educational benefits of Kshs.52,183,544 as disclosed in Note 8 to the financial statements. However, payments totalling Kshs.2,729,420.00 was not acknowledged through miscellaneous receipts and acknowledgement letters from beneficiary institutions.

In the circumstance, the accuracy and completeness of Other Grants and Transfers of Kshs.2,729,420.00 could not be confirmed.

3. Unconfirmed Deliveries of Pharmaceuticals and Non-Pharmaceutical Items

The statement of receipts and payments reflects use of goods and services amount of Kshs.487,950,930 which includes specialized materials and services amount of Kshs.167,346,194 as disclosed under Note No.5 to the financial statements. This further includes an expenditure of Kshs.41,632,585 paid to Kenya Medical Supplies Agency (KEMSA) for supply of pharmaceuticals and non-pharmaceutical items vide payment No

R4367/21/-1537 of Kshs.28,844,960 dated 31 May, 2021, and Meds vide payment No R4367/20-676 of Kshs.12,787,625 dated 3 January, 2022. However, these payments were done without invoices and delivery notes as proof of delivery for the supplies. In the absence of supporting documents, it was not possible to confirm whether these supplies were delivered.

In the circumstances, the validity, propriety and completeness of the payment of Kshs.41,632,585 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 Elgeyo Marakwet 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. Budgetary Control and Performance

The statement of comparison of budget and actual amounts had an approved final receipts budget of Kshs.5,961,136,889 against actual receipts of Kshs.4,588,451,226 resulting in an under-receipt of Kshs.1,372,685,663 or 23% of the approved budget. Similarly, out of the approved final expenditure budget of Kshs.5,961,136,889, the County Executive realized an actual expenditure of Kshs.4,513,715,903 leading to an under-expenditure of Kshs.1,447,420,986 or 24% of the approved budget.

The under-utilization of approved budget and under receipt of revenue may have negatively affected service delivery.

2. Unresolved Prior Year Audit Matters

Review of the progress on follow up on prior year auditor's recommendations reveal that, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance which remained unresolved contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require Accounting Officers designated for County Government entities to try to resolve any issues resulting from an audit that remain outstanding

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. Non-compliance with Human Capital Recruitment Procedures

The statement of receipts and payments reflects compensation of employees' balance of Kshs.2,239,580,441 as disclosed in Note 4 to the financial statements. Review of personnel records revealed that the County Public Service Board (CPSB) recruited a total of twenty-seven (27) employees across five (5) departments. However, the recruitment was carried out without an annual recruitment plan/human capital plan contrary to Regulation 119(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that the budgetary allocation for personnel costs shall be determined on the basis of a detailed costing of a human capital plan of a County Government entity as approved by the responsible county department for public service management matters, the County Public Service Board and County Treasury.

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

2. Non-compliance with the Law on Staff Ethnic Composition

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,239,580,440 as disclosed in Note 4 to the financial statements.

Examination of personnel records provided revealed that the County Public Service Board (CPSB) recruited a total of twenty-seven (27) employees across five (5) departments and one (1) County Public Service Board (CPSB) Member.

However, all the twenty-eight (28) staff recruited (100%) were from the dominant community in the county contrary to the provisions of Section 65(1)(e) of the County Government Act, 2012 which requires that the County Public Service Board in selecting of employees, to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates for appointment who are not from the dominant ethnic community.

Further, the records provided for audit indicated that the County Executive had a total of one thousand six hundred and seventy-seven (1,677) employees out of which one thousand five hundred and seventy-four (1,574) or 94% were from the dominant community.

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

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3. Non-compliance with the Law on Fiscal Responsibility – Wage Bill

Review of the compensation of employees revealed that the actual expenditure was Kshs.2,239,580,441 equivalent to 49% of actual revenue of Kshs.4,588,451,226. The actual expenditure was in excess of the threshold of 35% prescribed in Regulation 25(1b) of the Public Finance Management Act (County Government) Regulations, 2015.

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

4. Electric Fencing - Rimoi National Reserve

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,344,469,910 which includes construction and civil works balance of Kshs.387,632,927 as disclosed in Note 10 to the financial statements. This further includes a payment of Kshs.2,499,300 to a local company with respect to supply, delivery and installation of fencing materials at Rimoi Game Reserve. However, a physical verification of the project on 21 October, 2022, showed that the fencing materials had been delivered but not installed. The fencing posts were not treated for weather resistance as specified in the contract documents and were lying at the Rimoi National Reserve. The Solar panels and batteries were kept at the County Head Quarters and not installed. No explanation was provided as to why the fencing project was not completed as required.

Consequently, it is not possible to confirm that there was value for money in the payment of Kshs.2,499,300.

5. Rehabilitation and Extension of Ainabyat Water Project

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,344,469,910 which includes rehabilitation and civil works amount of Kshs.157,699,883 as disclosed in Note 10 to the financial statements. Included in the later balance is payment of Kshs.32,763,155 to a contractor towards rehabilitation and extension of Ainabyat Water project. The works were to be completed within one hundred fifty (150) days (between 4 March, 2021 and 4 August, 2021). Physical verification of the project revealed that works valued at Kshs.6,782,050, although paid for, were not done.

In the circumstances, the value for money of the expenditure of Kshs.6,782,050 could not be confirmed.

6. Unutilized Hospital Equipment

The statement of receipts and payments reflects acquisition of assets amount of Kshs.1,344,469,910. Included in this amount are payments totalling to Kshs.62,564,734 in respect to purchase of specialized plant, equipment and machinery as disclosed in Note 10 to the financial statements. Examination of the documents provided for audit revealed that the County Executive paid Kshs.8,800,000 and Kshs.1,395,620 for supply and delivery of hospital theatre equipment for Kaptarakwa Sub-county hospital and laundry machine to Tambach Sub-county hospital respectively.

However, physical verification carried out in the month of November 2022 revealed that the theatre equipment had been lying idle for six (6) months, while the laundry machine had been lying idle for thirteen (13) months and had not been installed.

In the circumstances, the value for money in the payments of Kshs.10,195,620 could not be confirmed.

7. Incomplete Projects

Thirty-three (33) projects with a total expenditure amount of Kshs.199,170,821 were verified. Out of these, twenty-eight (28) projects were complete while five (5) projects were at various stages of completion with a total expenditure amount of Kshs. 91,769,122. The Management has not explained the reasons for not completing the five (5) projects.

In the circumstances, the value for money for the expenditure of Kshs. 91,769,122 on incomplete projects could not be confirmed.

8. Irregular Payment of Insurance Rebates

Examination of payment records indicated that the County Executive paid Kshs.5,052,000 to National Hospital Insurance Fund (NHIF) in respect to rebates. However, the Memorandum of Understanding provided to support the payments expired in December, 2019. No renewal documents were provided for audit. Further these payments were not supported with relevant documentation on how the beneficiaries were identified, registered and profiled in the County Executive records.

In the circumstances, the value for money on the expenditure of Kshs.5,052,000 could not be confirmed.

9. Irregularities on Payment to the Tender Evaluation Committees

The statement of receipts and payments reflects total payments amount of Kshs.4,513,715,903. However, examination of documents provided for audit revealed that there were tenders totalling to Kshs.69,942,906 which were evaluated by the same officers contrary to Section 46(1) & (2) of the Public Procurement and Asset Disposal Act, Revised Edition 2022 (2015). No documents were provided to confirm how the officers were appointed to the tender evaluation committee as required by the Act. Further, no evidence was provided to show whether there was consultation between the procuring entity and the head of the department before such appointments were made.

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

10. Manual Processing of Personnel Emoluments

Statement of receipts and payments reflects compensation of employees' balance of Kshs.2,239,580,441. Included in this balance is personnel emoluments payments totalling Kshs.172,870,338 which were processed and paid manually contrary to Section 1.5.1 of the Financial Accounting Recording, and Reporting manual which requires each County Government Department to populate the Integrated personnel and Payroll Database

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(IPPD) with the data and information on each of its employee and issue each one of them with a unique payroll number from the system upon appointment.

In the circumstance, the Management is in breach of the regulations.

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 Operating Manuals

As reported previously, Management had in the year under review not developed financial manuals, policies and procedures to guide key processes and controls for the management of revenue, assets and expenditure. The manuals and polices would have prescribed roles and responsibilities in County operations and provided for segregation of duties and other controls.

In the absence of the manuals, guidance and controls on management of revenue, assets and expenditures of the County Executive may be inadequate.

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 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 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 governance.

In preparing the financial statements, Management is responsible for assessing the County Executive's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the County Government is aware of plans to dissolve the County Executive.

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 County Executive 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 controls 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 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 controls 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 the County Executive'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 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 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 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

01 March, 2023