REPORT OF THE AUDITOR-GENERAL ON ROAD MAINTENANCE LEVY FUND FOR THE YEAR ENDED 30 JUNE, 2023 - KENYA RURAL ROADS AUTHORITY

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 that the Government achieves value for money and that such funds are applied for the 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

Opinion

I have audited the accompanying financial statements of Road Maintenance Levy Fund set out on pages 1 to 19,which comprise of the statement of financial position as at 30 June, 2023, and the statement of financial performance, statement of changes in net assets, statement of cash flows and the 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, the financial statements present fairly, in all material respects, the financial position of the Road Maintenance Levy Fund as at 30 June, 2023, 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 and the Kenya Roads Act, 2007.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Road Maintenance Levy 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 opinion.

Other Matter

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. Although the issues have been discussed before the Special Funds Committee of the National Assembly, they have not been resolved.

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 matter 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

Implementation of Road Maintenance Projects under RMLF

The audit verification of Roads Maintenance Levy Fund (RLMF) in respect to Kenya Rural Roads Authority regional offices namely Homabay, Kisii, Kericho, Busia, Bungoma, Baringo, Turkana, Nandi and Narok for the year ended 30 June, 2023 was carried out in the month of July, 2023. The projects visited by the audit team and the observations are indicated in **Appendix 1** attached.

In the circumstances, the projects may not have been executed as scheduled which negatively impact realization of value for money to the public.

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 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 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 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 controls 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 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 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 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 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 communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

21 March, 2024

Appendix 1 - Road Maintenance Projects Inspections

Project Name	Funding Source	Contract Details	Contract sum Kshs.	Observations
Rodi-Opambo-Gogo Katuma	22%	KeRRA/HB/HBT/08/39/51/22%RMLF/22/23-052(Spot improvement)	2,287,288.00	Project is complete however there was no completion certificate and regret letters to unsuccessful bidders.
God Jope-Kamato Road	22%	KeRRA/HB/MBT/08/39/51/22%RMLF/22/23-61(Routine maintenance and Spot improvement)	4,567,558.00	Project is complete however there was no completion certificate and regret letters to unsuccessful bidders.
Kaoko 1 Box Culvert	10%	KeRRA/HB/HBT/08/39/51/10%RMLF/22/23-093	5,368,019.00	The project is ongoing past the completion date of 27 June, 2023. However, the contract has sought extension due to heavy rainfall at the region. The audit inspection of the project was carried out on 24 July, 2023, the contractor was on site, however no signage was verified.
Iranda-Nyanguro (E6224)	22%	KeRRA/08/24/KSI/KCS/2-46-2022/23-100 (Routine maintenance and Spot improvement)	3,341,252.00	The project duration has expired and no letter of extension from the contractor.
Nyambera Nyakongo-Nyanguru-Gesarra (E1929) Road	10%	KeRRA/08/24/KSI/KCS/2-46-2022/23-119 (Spot improvement)	2,344,422.00	The project is complete; however, we observed the encroachment by the Kenya power as witnessed by placement of electricity pole on the road thus hindering road works. No signage was verified.
Riabineri-Oroboti-Nyakeogio(D1914)	10%	KeRRA/08/24/KSI/KCS/2-46-2022/23-118 (Spot improvement)	2,689,242.00	The project was verified on 26 July, 2023, there was no publicity signs and interaction with the locals, we were told it was vandalized by area MCA, Amos Mokaya for Nyatieko ward.
Nyamaonde-Metaburu-Bunyawro-Motonto (E6211)	22%	KeRRA/08/24/KSI/KCS/2-46-2022/23-003 (Spot improvement	3,414,955.00	The audit inspection of the project was carried out on 26 July, 2023 and its ongoing, the contractor is behind schedule and has not requested for project extension. No publicity sign, contractor not on site and there are also encroachment by locals. There was a problem of road sand harvesting.

Project Name	Funding Source	Contract Details	Contract sum Kshs.	Observations
Kiplelgutik-Kamarogo Road	22%	KeRRA/KCO/08/SOIN/22%/39/22/23-014 (Construction and Maintenance)	7,122,164.00	The audit inspection of the project was carried out on on 27 July, 2023. The project is ongoing. No Publicity sign, the backfilling of culverts at Kinorok and road compacting not done, however the contractor is on site.
Kadinda-Chebitet-Kaplelartet	10%	KeRRA/KCO/08/SOIN/22%/39/10%/22/23 (Construction and Maintenance)	4,395,008.00	The project is about 40% complete and is ongoing, The audit inspection of the project was carried out on 27 July, 2023 and there was no contractor on site, no publicity sign and generally the project was behind schedule.
Kaoko Box Culvert 2	10%	KeRRA/HB/HBT/08/39/51/10%RMLF/22/23-094	5,155,568.61	Contract period:3 months commencement date: March, 2023 Completion: June, 2023 Observation: No request for Extension of Time was seen in the file yet completion period already lapsed. No publicity sign seen, no works ongoing and contractor not on site.
Nyosia – Timani - Nyaguta Road	22%	KeRRA/08/24/39/KSI/NM/10%/2-46-22/23-083	3,297,098.00	No publicity sign seen, no culvert, no scour checks seen. Time has elapsed and there is no contractor on site, yet no communication as to reason for delay.
Nyanturago-Riamokwobe	10% CS	KeRRA/08/24/39/KSI/NC/22%/2-46-22123-150	9,859,908.65	Culverts seen, scour checks seen, no publicity sign seen, works ongoing
Routine Maintenance and spot improvement of Lwanyange – Malanga (C825) Road	22%	KeRRA /08/39/BSA/NBL/22%RMLF/2022/23-029 Road	6,484,052	No publicity sign boards observed. Culverts and other drainage works, grading and gravelling had been done as per the Bill of quantities.
Nambale – Lwanyange Road (C825)	22%	KeRRA/08/39/BSA/NBL/22%/22/23-030	6,444,269.80	The length of the road is 2.5 km. There were issues of blocked drainages
Igara –Lupida (E9022) Road	22%	KeRRA /08/39/BSA/NBL/22% RMLF /2022/23-032	5,964,866.16	No publicity sign boards seen. Further, there was visible erosion of some parts of approximate length of 8.5 km
Sio port Mugumu Agenga	22%	KeRRA/08/39/BSA/FYL/22% RMLF /22/23-065	4,091,552	It was observed that there was thin gravel washed away hence some rough patches.

Project Name	Funding Source	Contract Details	Contract sum Kshs.	Observations
Dispensary road				The width of the road not 5m on all parts as required in the Bills of Quantity.
Upgrading to Bitumen Standards and Performance-Based Maintenance of Benga – Akobait – Papa Primary School Road	GOK	KeRRA/08/39/04/2020-21	108,871,200.40	During the field verification exercise, we noted that there was a delay in the progress of works as only 900m had been completed out of 3kms.The expected completion time had lapsed on 22 June, 2023 and the contractor had not requested for extension of time.
Mwibale – River Kuywa Road (C810)	22%	KERRA/08/39/BGM/KDY/22%RMLF/22/23-043	4,511,936	During the field verification, we observed that there were no publicity sign boards on the road. The length of the road was 6.5 km. the culverts were well installed as per the bill of quantities. There was sand harvesting done on some parts of the road hence damaging those sections.
Bungoma – River Kuywa Road (C811) Bungoma Ekitale Section	22%	KERRA/08/BGM/KDY/22%RMLF/22/23-041	5,866,450.60	There were no publicity sign boards on the road. Some sections of the road were damaged as a result of heavy rainfall.
Bungoma-River Kuywa Road	10%	KERRA/08/29/BGM/KDY/10%RMLF/22/23-051	3,672,931.20	There was heavy grading and gravelling works done on the road. The culverts were also cleaned.
Bumula – Nasianda Constituency Boundary Matungu (C782)	22%	KERRA/08/39/BGM/BML/22%RMLF/22/23-053	6,689,720	During the field verification exercise, we observed that the two publicity sign boards that had been previously erected at the start and the end of the road were missing.
Sango – Malakisi – Imani Intergrated Center (C816**)**	22%		8,141,460	During the field verification exercise, we observed that although heavy grading and gravelling works had been done there were some sections of the road that had potholes.
Kulisiru-Ndakharu (C814) Machakha (G9766)	22%	KERRA/08/39/BGM/SRS/22% RMLF/22/23-104	5,607,788	During the field verification exercise, we noted that only one publicity signed had been erected at 5 +800m. The culverts, scour checks and gabions had been installed as per the bill measurement sheets. Heavy

Project Name	Funding Source	Contract Details	Contract sum Kshs.	Observations
				grading and gravelling works had been done and completed.
Talia – Rorobai Section (G83425)	22%	KeRRA/08/39/BAR/3/2022-23/21	4,400,900.80	The publicity sign boards were in place as specified on the bill measurement sheets. Grading, installation of culverts, gravelling and desilting of the culverts to allow free flow had been done and completed. However, there were parts that had been washed off /damaged.
Marigat – kapkuikui (E8149) Marigat – Miriman Section	22% Savings	KeRRA/08/39/BAR/164/2021-22/22%SAV/BRS	3,865,425.66	The site clearance activities had been done, culvert and other drainage works including installation of gabions had been done as per the bill measurement sheets. Grading and gravelling had been done. However, there was a section that had been eroded hence narrowing the road further and making it difficult to allow two-way traffic.
Koriema – Bekibon Tinomoi JCT (Koriema – Sabor-Bekibon Section)	22%	KeRRA/08/39/BAR/6/2022-23/22%/BRS	3,419,680	During the field verification exercise, we observed that culverts and drainage works had been done and completed as per the bill of quantities. We noted that the road was eroded kms 4+600 and at kms 5+700 there was river passing therefore making it impassable.
Arwos - Kilobwoni - Terige-KCC Section (0+000-5+000)	22%	KeRRA//008/39/NDI/EMGWEN/E8025 (EE284J1)/22%RMLF/2-34-22/23-053	3,365,775.97	Project has been completed but there was no publicity signboard
Kapsabet Girls-IRMIS	22%	KeRRA/008/39/NDI/EGWEN/P22-KAPSABET/22%RMLF/2-34-22/23-055	3479146.47	Project has been completed but there were no publicity signboards

Other Observations on Road Maintenance Works

Project Name	Contract no.	Length	Contract Sum Kshs.	Observation
Matayos-Ganjala-Nakhasiko-Nangina Road(C830)-Gravel Standard	Contract no: KERRA/08/39/BSA/22% RMLF/MATAYOS/2021/22-047	2.7KM	21,986,999.60	• The project commenced on 24 October, 2022 and was to be completed on 07 April, 2023 • The contract period has elapsed and the contractor has not officially requested for extension of the contract • The contractor is on site irregularly. • No diversion is constructed as per the provisions of the contract and the road is closed • The contractor should be penalized for lapse of contract period without any works i.e pay for liquidated damages of 5% of contract value as per the contract provisions
Amukur-Segero(C825)	KERRA/08/39/BSA/22% RMLF/TS/2022/23-002	8.2KM	5,265,687.76	• No publicity sign board seen • The road requires a new bridge or box culvert, the current one is hazardous to road users.
Simba Chai-Likoli (E9029)	KERRA/08/39/BSA/22% RMLF/TS/2022/23-006	9.2 KM	6,080,334.88	• No publicity sign board • Some sections of the road are too narrow and did not meet the recommended width of 5 meters. • Bush has overgrown in some sections

Project Name	Contract no.	Length	Contract Sum Kshs.	Observation
Makhonge JCT-Major Bridge-Tongaren MKT(UG91545)	KeRRA/08/39/BG/TGN/22%RMLF/22/23-033	5.2KM	4,781,520.00	• No publicity sign board • Most sections of the road have potholes • Require construction of new bridge, since the current one is hazardous to road users.
Boundary Minyali-E278NDALU (C622)	KeRRA/08/39/BG/TGN/22%RMLF/22/23-038	9KM	5,947,320.00	• No publicity sign board seen • There were visible problems with the drainage of the road • Most sections of the road have potholes
Bunambo-Jct C622Ndalu (C627)	KeRRA/08/39/BG/TGN/10%RMLF/22/23-029	9KM	4,171,025.92	• No publicity sign board seen • There were visible problems with the drainage of the road • Most sections of the roads have potholes
Nabuyole-E308Lugulu (R10)	KeRRA/08/39/BG/WBE/22%RMLF/22/23-003	10.8KM	8,288,130	• On most sections of the road, the rocks are exposed due to washing away of the gravel.
Maraka-Webuye(C810)	KeRRA/08/39/BG/WBE/22%RMLF/22/23-001	13.4KM	8,059,564	• Some sections of the road have potholes • The actual Km done as per audit inspection is 6km while the contract payment made is for 13.4Km as indicated in certificate of completion
Muguyun-Jct Molo Sirwe-(E8054)	KeRRA/08/39/BAR/20/2022-23/22%/MGT	7KM	3,216,100	• There were visible problems with the drainage of the road • Some sections of the road have potholes
Kipsogon Centre Mogotio Kelelwa Jnct (G81059)	KeRRA/08/39/BAR/25/2022-23/22%/MGT	5.KM		• There were visible problems with the drainage of the road • Some sections of the road have potholes
Rehabilitation and Spot Improvement of Eldamaravine-	KeRRA/08/39/BAR/90/2021-22/GOK/ERV	17KM	120,664,458.68	• The project commencement was on 27 September, 2022 and was to be completed 20 September, 2023

Project Name	Contract no.	Length	Contract Sum Kshs.	Observation
Makutano (C687) Road				• Amount Certified to date as per IPC No. 1 and 2: Kshs.67,491,172.53 • Road shoulders have been eroded due to wear and tear • Some sections have developed potholes • Some sections have poor drainage system with water crossing over the road • Chippings have been washed away • Road furniture not yet done • Protection works not completed • No updated Status Report for the project as at July, 2023 • The contractor was not on site.