REPUBLIC OF KENYA

OFFICE OF THE AUDITOR-GENERAL

REPORT

OF

THE AUDITOR-GENERAL

ON

THE FINANCIAL OPERATIONS OF COUNTY ASSEMBY ELGEYO MARAKWET

FOR THE PERIOD
I JULY 2014 TO 30 JUNE 2015

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REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF COUNTY ASSEMBLY OF ELGEYO MARAKWET FOR THE PERIOD 1 JULY 2014 TO 30 JUNE 2015

EXECUTIVE SUMMARY

Background Information

The Constitution of Kenya, 2010 under Article 176, created County Governments which consist of the County Assembly and the County Executive. The County Assembly which is the legislative arm of the County Government consists of the Speaker and Members of the County Assembly.

INTRODUCTION

This management and financial operations audit report covers the financial year ended 30 June 2015. It was undertaken to assess the adequacy and reliability of the systems of management and financial controls instituted by the management of the County Assembly in running its affairs with emphasis on the use of public resources.

Terms of Reference

The Office of the Auditor-General is an independent office mandated by the Constitution under Article 229 to audit the accounts of the National and County Government. In this regard, the office planned a management and financial operations audit of the County Assembly of Elgeyo Marakwet for the year ended 30 June 2015 with the following audit objectives:

- To assess of controls over management of cash and bank accounts.
- To assess of controls over management of assets under the control of the County Assembly.
- To assess of compliance with the procurement laws in process of acquisition of goods or services
- To assess compliance with Public Finance Management Act, 2012 in the utilization of public funds.
- To asses compliance with other relevant laws and regulations
- To ascertain the confidentiality, integrity and availability of financial and other information used by management in the utilization of public funds.
- To confirm that all necessary supporting documents, records, and accounts have been kept in respect of all transactions.

Methodology

The approach used in carrying out this audit included the following:

- Interviews with key officers at the County Assembly offices.
- Review of applicable legislation and regulations.
- Examination of payment vouchers and support documents, cashbooks, vote books, bank statements, bank slips, miscellaneous receipt books, procurement documents, stores records, asset registers and other related records.
- Review of minutes of various meetings where there were resolutions regarding utilization of public funds.
- Physical inspection and verifications
- Observation of processes and activities.
- Review of documents used by management to monitor use of funds.

Scope and Determination of Responsibilities

The audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs).The standards require that the audit is planned and performed so as to obtain reasonable evidence that, in all material respects, expenditure incurred is fairly stated and all financial transactions are recorded.

The matters mentioned in this Report are therefore those that were identified through tests considered necessary for the purpose of achieving the audit objectives and it is possible that there might be other matters and/or weaknesses that were not identified. The formulation and maintenance of effective control measures and compliance with laws and regulations is the responsibility of the management. My responsibility is to report on the weaknesses and non-compliance with laws and regulations identified in the course of the audit.

The following sections highlight the key audit findings noted during the audit of the financial operations for the year ended 30 June 2015.

Key Audit Findings

1.0 Budgetary Controls and Performance

During the year under review, the approved budget for the County Assembly totaled Kshs.383,566,262 out of which sum of Kshs.328,372,997 (86%) was allocated to recurrent expenditure and Kshs.55,193,265 (14%) to development expenditure. Out of the sum of Kshs.55,193,265 budgeted for development, a balance of Kshs.51,650,864 or 93.58% was spent on various projects of the County Assembly leaving Kshs.3,542,401 or 6.42% unspent. No explanation was provided for this under expenditure.

2.0 Foreign Trip to Arusha

In December 2014 the Clerk of the County Assembly nominated 17 Members of the County Assembly (MCAS) and 15 members of staff to attend a training workshop in

Arusha Tanzania on invitation of a Kenyan non-governmental organization. The trip cost the Assembly Kshs.4,105,144.However, the only payment vouchers presented for audit were No.350 for training fees of Kshs.1,750,000 and No. 295 of Kshs.592,550 for per diem rates. The management did not present for audit payment vouchers and details of the payments of per diem paid to Members who attended the training and information on the means of transport used. Further, no report was prepared by the members for tabling, adoption and implementation in the Assembly as required by the Assembly Standing Orders.

In the absence of a report and records showing how the money was spent, the validity and regularity of the payments totaling Kshs.4,105,144 could not be confirmed.

3.0 Mortgage and Car Loans to MCAs

3.1 Un-accounted for Funds

A review of the mortgage and car loan facility for the members of the County Assembly indicated that a total of Kshs.150,000,000 was transferred in two tranches over a period of two financial years (2013/2014 and 2014/2015) to the Assembly from the County Treasury for the purpose of funding car and mortgage loans to members of County Assembly. A sum of Kshs.90,000,000 was transferred during the previous year 2013/2014 and Kshs.60,000,000 during 2014/2015. However, the County Assembly only disbursed Kshs.147,670,000 to the members during the two-year period. The balance amounting to Kshs.2,330,000 has not been accounted for.

Under the circumstances, it has not been possible to confirm the status of the undisbursed amount totaling Kshs.2,330,000.

3.2 Non-submission of Mortgage and Car Loan Securities

A review of the County Assembly records indicated that mortgage and car loans totaling Kshs.147,670,000 were granted to Members of the County Assembly (MCAs). The loans were to be recovered from the Members' salaries that were in addition required to provide guarantees in property titles to be charged against the mortgages, and logbooks against car loans.

It was noted that the vast majority of members had not provided the guarantees to the loans as required in the loan agreement. Out of thirty (30) members of the County Assembly who took the loans, only four (4) had surrendered logbooks and land tittles in their names. Further, for those deposited, there was no evidence that notifications were made to the Ministry of Lands to charge the titles deposited, or for logbooks, notification to the KRA to register the vehicles as jointly owned between the respective borrowers and the County Government of Elgeyo Marakwet as surety for the loans.

Consequently, the loans advanced to MCAs totaling to Kshs.147,670,000 are not fully secured.

4.0 Failure to Maintain an Assets Register

Information obtained during the audit indicated that the County Assembly did not maintain an assets register and it was therefore not possible to ascertain the nature, number and true value of the Assembly's assets. Also, there was no handing over report on assets inherited by the County Assembly from the defunct Iten Town Council. Further, since the Assembly did not maintain assets register, it was not possible to ascertain the values of the inherited Assets.

5.0 Excess Payment for Responsibility Allowances

Examination of individual pay slips of the members of the County Assembly revealed that MCA's who served in more than one leadership position received two payments of responsibility allowances all totaling Kshs.2,944,000. Although the matter had been highlighted by the Principal Finance Officer vide an internal memo dated 27 February 2015, no evidence was presented to confirm any attempt to recover the overpaid allowances from the MCA's.

Consequently, the propriety of the members' responsibility allowances amounting to Kshs.2,944,000 paid during the year under review could not be confirmed.

6.0 Overpayment of Plenary Sitting Allowances to Chairperson and Vice Chairperson of Assembly Committees

Records maintained by the County Assembly revealed that the chairperson and vice chairpersons of various Assembly committees were irregularly paid sitting allowances during plenary sessions. From December 2013 to December 2014, the Chairpersons and Vice-Chairpersons were paid a total of Kshs.20,549,750 as opposed to their entitlements totaling to Kshs.13,394,550 thus resulting in excess payment of Kshs.7,155,200.There was no evidence showing that the management had made any effort to recover the overpaid sitting allowances.

As a result, the propriety of the expenditure of Kshs.7,155,200 could not be confirmed.

7.0 Unsupported Payment of Per Diem Allowances

A review of the County Assembly records revealed that payments in respect to per diems and flight tickets to Members of the County Assembly (MCAs) and staff totaling Kshs.13,513,701 were made in spite of lack of vital documents showing travels made. The documents included invitation letters, work tickets and boarding passes.

As a result, the propriety of the expenditure of Kshs.13,513,701 could not be confirmed.

8.0 Misallocation of Funds

Examination of records of the County Assembly revealed that funds totaling to Kshs.3,173,433 were re-allocated from other budget votes and spent without the requisite authority. The County Assembly failed to follow the approved budget contrary to Government Financial Regulations and Procedures.

9.0 Wasteful Expenditure on Refurbishment of County Assembly Chambers

A review of procurement records revealed that the County Assembly awarded a contract on 12 June 2014 to refurbish the County Assembly Chambers at a contract price of Kshs.8,603,319. As at 30 June 2015, the contractor had been paid a total of Kshs.7,295,498. Out of a total expenditure of Kshs.8,603,319 reflected in the Bills of Quantities (BOQ) a sum of Kshs.2,900,000 was an avoidable expenditure as explained under the detailed section of this report.

Consequently, the propriety of the expenditure of Kshs.2,900,000 could not be confirmed.

FCPA Edward R.O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

31 August 2016

DETAILED REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF COUNTY ASSEMBLY OF ELGEYO MARAKWET FOR THE PERIOD 1 JULY 2014 TO 30 JUNE 2015

Detailed Audit Findings

1.0 Budgetary Controls and Performance

During the year under review, the approved budget for the County Assembly totaled to Kshs.383,566,262 out of which Kshs.328,372,997 (86%) allocated to recurrent expenditure and Kshs.55,193,265 (14%) to development expenditure. Further, out of the Kshs.55,193,265 budgeted for development, a balance of Kshs.51,650,864 or 93.58% was spent on the various projects initiated by the County Assembly leaving a balance of Kshs.3,542,401 or 6.42% unspent. No explanation was provided for the under expenditure. Therefore the County Assembly's weighted absorption rate for both current and development expenditure was high at over 90% as shown in the table below:

Item	Cumulative Expenditure	Outstanding Commitment	Total Payments/ Commitments 2014/2015	Budgeted Allocation 2014/2015	Absorp-tion Rate %	% weighted absorption rate
Recurrent Expenditure	327,481,856	891,134	328,372,990	328,372,990	100	85.61
Development Expenditure	36,686,751	14,964,113	51,650,864	55,193,265	93.58	13.46
			380,023,854	**383,566,255**	**99.08**	

2.0 Foreign Trip to Arusha

A review of the records presented for audit indicated that the County Assembly members were invited to attend training on empowering the Liaison Committees for effective transformative leadership of the Counties from 16-17 December 2014 in Arusha Tanzania. The invitation was to the Clerk of the Assembly the Institute of Accountability and Management Kenya Ltd through letter Ref: IAMKL/LET01/12/2014 dated 25 November 2014. The Clerk nominated 17 Members of the County Assembly (MCAS) and 15 members of staff to attend the course. The total cost for the trip was Kshs.4,105,144 as shown in **Appendix I**. The payment vouchers provided were No.350 for training fees of Kshs.1,750,000 and No. 295 of Kshs.592,550 for the difference in new per diem rates. However, management did not present for audit payment vouchers and details of the

payments of per diem to the Members and staff, and the information on the means of transport used. Further, no evidence was presented to show that a report on the course was prepared by the members for tabling, adoption and implementation in the Assembly as required by the County Assembly Standing Orders.

In the absence of a report and records showing how the money was spent, the validity and regularity of the payments totaling Kshs.4,105,144 could not be confirmed.

Recommendation

i. The Management should ensure that all payments are in line with Government Financial Regulations and Procedures.
ii. Further, the management should submit for audit review the documents failure to which the respective MCA's and staff should be surcharged for the unsupported amount of Kshs.4,105,144.

3.0 Mortgage and Car Loans to MCAs

3.1 Un-accounted for Funds

An audit review of the operations of the mortgage and car loan facility for the members of the County Assembly indicated that a sum of Kshs.150,000,000 was transferred in two tranches to the Assembly from the County Treasury for the purpose financing car and mortgage loans to Members of the Assembly. A sum of Kshs.90,000,000 was transferred during the previous year (2013/2014) and Kshs.60,000,000 during the financial year under review. However, the Assembly only disbursed Kshs.147,670,000 to the members as shown in **Appendix II**. The difference of Kshs.2,330,000 has not been accounted for. Under the circumstances, it has not been possible to confirm the status of the undisbursed balance totaling to Kshs.2,330,000.

Recommendation

The management should account for the undisbursed amount and avail the supporting documents for audit review failure to which the Accounting Officer is held liable for the undisbursed balance amounting to Kshs.2,330,000.

3.2 Non-submission of Mortgage and Car Loan Securities

A review of expenditure records indicated that a total of Kshs.147,670,000 was advanced to Members of County Assembly (MCAs) in mortgage and car loans during the year under review. The loans were to be recovered from the MCA's salaries and who were, in addition, required to provide guarantees in property titles to be charged against mortgages and logbooks for the car loans. It was however noted that the titles and log books had not been surrendered and charged to the loans as required in the loan agreement. Out of thirty (30) members of the County

Assembly who took the loans, only four (4) had surrendered logbooks and land tittles registered in their names. For the titles or logbooks which had been deposited, there was no evidence showing that the secretariat had notified the Ministry of Lands that the titles had been charged. Similarly the Kenya Revenue Authority (KRA) had not been notified to jointly register the vehicles as co-owned by the borrowers and the County Government of Elgeyo Marakwet.

In view of failure by the management to submit for audit review securities relating to the loans totaling Kshs.147,670,000 advanced to MCA's, it has not been possible to confirm that the loans are secured from possible default in their repayment.

Recommendation

The Accounting Officer should comply with the provisions of the County Assembly Mortgage and Car Loan Act 2014 failure to which the responsible officer is held liable for any loss incurred.

4.0 Failure to Maintain an Assets Register

Information made available for audit review indicated that the County Assembly did not maintain an assets register. The management maintained only a listing of some items of furniture, laptops, and computer accessories. This was contrary to Section 149 (o) of the Public Finance Management Act, 2012 which requires that the respective County Government entity to have adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant authority. Further, the County Assembly inherited assets from the defunct Iten Town Council but there was no report showing the assets handed or taken over.

As a result, the value of assets including those inherited from the defunct Town Council could not be ascertained.

Recommendation

The management should maintain a fully updated fixed assets register in line with Public Finance Management Act, 2012, Section 149(o) failure to which the responsible officer should be held liable.

5.0 Excess Payments for Responsibility Allowances

Examination of pay slips for the members of the County Assembly revealed that MCA's who served in more than one leadership position were paid responsibility allowances contrary to Salaries and Remuneration Commission circular ref: No. SRC/TS/RECM&E/3/68 dated 17 November 2014 paragraph (VI) which states that responsibility allowance is drawn once a month irrespective of the number of committees a member is chairing or participating in. During the year under review, the payments totaled to Kshs.2,944,000 as shown under **Appendix III**. Although

the matter had been highlighted by the principal finance officer vide an internal memo dated 27 February 2015, there was no evidence of efforts made to recover the overpayments from the MCA's. Consequently, the propriety of the overpayments totaling to Kshs.2,944,000 could not be confirmed.

Recommendation

i) The overpayments totaling to Kshs.2,944,000 should be recovered from the respective members.

ii) The County Assembly should adhere to the Salaries and Remuneration Circular ref: No. SRC/TS/RECM&E/3/68 on the payment of responsibility allowances.

6.0 Overpayment of Plenary Sitting Allowances to Chairperson and Vice Chairpersons of the County Assembly Committees

Records maintained by the County Assembly revealed that the chairpersons and vice chairpersons of committees were irregularly paid committee sitting allowance during plenary sessions contrary to Salaries and Remuneration Commission circular No SRC/TS/CGOVT/3/16, which stipulates that Members of County Assembly are entitled to sitting allowances which should be paid in accordance with the standing orders or resolution of the County Assembly at the following rates:

(i) Chairperson: A member of the County Assembly with additional responsibility as a chairperson while chairing a meeting shall be entitled to sitting allowance of Kshs.6,500.00 per sitting to a maximum of eight paid sittings (four plenary and four committee sessions) per week subject to maximum of Kshs.208,000.00 per month.

(ii) Vice-Chairperson: A member of the County Assembly with additional responsibility as a vice- chairperson shall be entitled to sitting allowance of Kshs.5,200.00 per sitting to a maximum of eight paid sittings (four plenary and four committee sessions) per week subject to maximum of Kshs.166,400.00 per month.

(iii) Member: A member of the County Assembly shall be entitled to sitting allowance of Kshs.3,900.00 per sitting to a maximum of eight paid sittings (four plenary and four committee sessions) per week subject to maximum of Kshs.124,800.00 per month.

Records examined indicated that from December 2013 to December 2014, the Chairperson and Vice-Chairpersons were paid a total of Kshs.20,549,750 but were entitled to receive Kshs.13,394,550 thus resulting in excess payment of Kshs.7,155,200 as reflected in **Appendix IV**.

There was no evidence showing that the management had sought to recover the overpayment of sitting allowances by the time of writing this report. As a result, the propriety of the expenditure of Kshs.7,155,200 could not be confirmed.

Recommendation

The management should recover the irregular payment totaling to Kshs. 7,155,200 from the respective members' salaries.

7.0 Unsupported Payment of Per Diem Allowances

A review of the County Assembly records revealed that payments in respect of per diem and flight tickets to Members of the County Assembly (MCAs) and staff totaling Kshs.13,513,701 as per **Appendix V** were made without documentary evidence showing that the trips took place. The missing documents included work tickets, boarding passes, and letters of invitation contrary to Section 5.5.14 of the Government Financial Regulations and Procedures. The regulations prescribe that only payment vouchers which are complete in all aspects and supported by receipts, invoices, acknowledgement of receipt of goods, duly authorized and examined to have complied with requirements can be processed for payment. As a result of the omission, the propriety of the expenditure totaling to Kshs.13,513,701 could not be confirmed.

Recommendation

The management should submit for audit review documentary evidence in support of the unsupported payments totaling to Kshs.13,513,702 failure to which the payments should recovered from the respective officers.

8.0 Misallocation of Funds

Examination of the County Assembly records revealed that expenditures totaling to Kshs.3,173,433 as detailed in **Appendix VI** were irregularly funded through commitments charged on other voted items which is contrary to Section 15.12 of the Government Financial Regulations and Procedures that require expenditure on voted services to be charged on the respective voted estimates only. There was no evidence to show that the deviations were approved by the County Assembly.

Recommendation

The management should provide evidence showing that the re-allocations totalling to Kshs.3,173,433 were approved by the County Assembly failure to which the Accounting Officer is surcharged for the misallocated funds.

9.0 Wasteful Expenditure on Refurbishment of County Assembly Chambers

A review of procurement records revealed that the County Assembly in June 2014 contracted a local firm in Eldoret to undertake refurbishment of County Assembly Chambers at a contract price of Kshs.8,603,319. A Local Purchase Order (LPO) No. 1736854 was raised on 13 June 2014. As at 30 June 2015, payments to contractor totaled to Kshs.7,295,498. Examination of the expenditure records revealed that out of a total expenditure of Kshs.8,603,319 reflected in the bills of quantities (BOQ), Kshs.2,900,000 was an avoidable expenditure as follows:

S/NO	Item	Amount Spent (Kshs.)	Observation
1.	Office for Project Manager	200,000	The manager was the Public Works Officer of the County and there was no evidence of special office used.
2.	Hoarding	700,000	This was not done and was not even necessary given the Assembly Hall was within the compound which was guarded 24hrs with grilled entrances.
3.	Contingencies	500,000	The management's explanation that the floor was supposed to be wooden but was changed to concrete appears insufficient given that the change was totally not a contingent nature.
4.	Furniture	1,500,000	The contract included the supply of furniture but the type and specifications of the expected furniture was not provided.
	Total	**2,900,000**	

In view of the reservations noted in relation to these expenditures totaling Kshs.2,900,000, their propriety could not be confirmed.

Recommendation

The management of the County Assembly should provide for audit review the justification for the expenditure of Kshs.2,900,000 failure to which the same is recovered from the responsible officers.

Conclusion

Management should address issues noted in this report so as to ensure effective delivery of services to the people of Elgeyo Marakwet County Government.

Financial Regulation and Procedures should be adhered to in order to ensure that public resources are utilized for the intended purposes only.

FCPA Edward R.O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

31 August 2016