

REPUBLIC OF KENYA



KENYA NATIONAL AUDIT OFFICE

REPORT

OF

THE AUDITOR–GENERAL

ON THE

FINANCIAL OPERATIONS

OF

THE COUNTY GOVERNMENT OF
ELGEYO MARAKWET AND ITS
DEFUNCT LOCAL AUTHORITIES

FOR THE PERIOD
I JANUARY TO 30 JUNE 2013

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REPORT OF THE AUDITO-GENERAL ON THE OPERATIONS OF ELGEYO MARAKWET COUNTY GOVERNMENT ITS DEFUNCT LOCAL AUTHORITIES FOR THE PERIOD 1 JANUARY TO 30 JUNE 2013

Executive Summary

1.0 Introduction

1.1 The Auditor General has the mandate to audit and report on the accounts of National and County Governments under Article 229 of the Constitution and the Public Audit, 2003. Further, the County Government Act, 2012 replaced the local Government Act Cap 265, thus dissolving all the 175 Local Authorities and creating 47 County Governments.

1.2 According to Transition to Devolved Governments Act, 2012, after the general election on 4 March 2013, the functions, assets, liabilities and staff of the former Local Authorities were to be taken over by the County Governments. The objective of the special audit exercise was to ensure existence of a seamless transition process and proper systems for accountability of public resources before, during and after transition to County Governments.

1.3 The audit teams faced several constraints during the audits, including delay in getting various documents and non-availability of key staff of the former Local Authorities. These constraints resulted in delay in concluding the audits within the planned timelines.

2.0 Audit Objectives

The audit covered the Elgeyo Marakwet County Executive, County Assembly and the former Town Council of Iten Tambach, County Councils of Keiyo and Marakwet transactions for the period 1 January to 30 June, 2013 and took into account transactions before, during and after the transition period. The terms of reference set for the audit included verifications and confirmations of transactions in respect to but not limited to the following areas:

- The taking over of the former Local Authorities
- Cash and bank balances
- Current debtors and suppliers balances
- Motor vehicles and office equipment
- IPPD Payroll and establishment
- Recurrent and development expenditure items
- Procurement and procurement procedures
- ICT and G-Pay System

3.0 KEY AUDIT FINDINGS

ELGEYO MARAKWET COUNTY EXECUTIVE AND COUNTY ASSEMBLY

3.1 Failure to Take Over the Defunct Local Authorities

The Elgeyo Marakwet County had not officially taken over the assets and liabilities of the former County Councils of Keiyo and Marakwet and Town Council of Iten Tambach as at the time of conclusion of audit on 14 September 2013, contrary to instructions issued by the Ministry of Local Government vide Circular No. MLG/1333/TY/52 of 18 February 2013. Arrangements should be made by Transition Authority to have assets and liabilities of the former Councils handed over to the County Government. The former Councils' assets and liabilities closing balances will assist the County Government in determining opening balances for the books of accounts.

3.2 Cash and Bank Balances

The Elgeyo Marakwet County Government continued to operate fifteen (15) bank accounts of the defunct local authorities even after opening the County bank accounts, in total disregard of the requirements of the County Governments Public Finance Management Transition Act, 2013. The two (2), bank accounts of the defunct Town Council of Iten Tambach, seven (7) and six (6) accounts of the defunct County Councils of Keiyo and Marakwet respectively were still operational as at the conclusion of the audit exercise on 14 September 2013.

Failure to close bank accounts implied that revenue collections continued to be banked in these accounts and expenditure incurred, contrary to the law. The bank accounts should be closed and balances transferred to County Revenue Account. Expenditure incurred during the period should also be investigated and confirmed proper charge to public funds.

Further, the County Government maintained one cashbook which was used to record transactions for both the Executive and the County Assembly, although these are distinct accounting units within the County. Separate cashbooks should be opened and maintained for each unit to enhance proper accountability of funds allocated to them.

In addition, cashbook and bank reconciliation statements for the County Revenue bank account at Central Bank of Kenya were not done during from March to June 2013. Cashbooks should be maintained for all bank accounts and monthly bank reconciliations carried out to enable early detection of errors or fraudulent transactions. A senior official should check the reconciliations for timeliness, accuracy and follow-up of reconciling items.

3.3 Debtors

Debtors' ledger was not maintained. Further, there was no information on debtors transferred from the former local authorities to the County Government as proper handover of assets and liabilities had not been done.

An appropriate system for recording debtors should be developed to ensure accuracy and completeness of debtors' balances. Also, handing over of assets and liabilities to County Government should be done without further delay.

3.4 Creditors

The County Government did not maintain creditors' ledger to record creditors' transactions. As such, there was no information on creditors' balances as at 30 June 2013. Creditors should be promptly recorded in a ledger indicating particulars of each creditor and the same updated on regular basis.

3.5 Motor Vehicles and Equipment

Fixed assets register was not maintained by the County. Further, as at the time of audit no formal handing over had been carried out and instead, the county government had taken over motor vehicles and other equipment from the former local authorities without proper recording.

Proper handing over should be carried out without further delay. Also asset register to record assets taken over from former local authorities and those being acquired by the County Government should be maintained and updated on regular basis.

3.6 Staff Establishment and IPPD Payroll

The aggregated County Government staff establishment increased from 105 staff in February 2013 to 141 as at 30 June 2013. However, the staff head count had not been done to validate staff from former local authorities.

Staff head count should be carried out to ensure that no ghost workers are inherited from the defunct councils. It is also important that job evaluation and assessment is undertaken to facilitate deployment of key staff to relevant departments and also guide in recruitment of staff with required skills and knowledge.

Further, staff payrolls had not been incorporated into the IPPD system; instead the County Government continued to use the LAIFOMS payroll operated by the former local authorities. Payrolls should be consolidated in IPPD system for easier management and accountability.

3.7 Recurrent expenditure

Non supported and unauthorized payments

Several payment vouchers worth Kshs.1,333,325.00 mainly for night out/ subsistence allowances were not properly supported with relevant documentations including receipts and authority letters as required by the Government Financial Regulations and Procedures. Further, Temporary Imprests amounting to Kshs.1,010,640.00 issued to various staff in the month of June 2013 were paid without proper authorization.

The County Government should ensure that prior authorization of expenditure is obtained and all payments supported with relevant and authentic documentation.

3.8 Audit of Information Communication Technology (ICT) and G-pay

Assessment of how the County has put in place structures to govern and manage the information systems revealed the following weaknesses amongst others:

- The County was yet to develop and implement some of the key ICT documents including: ICT policies and procedures, ICT Strategic Plan, Business Continuity Policies (BCP) and Disaster Recovery Plans (DRP).
- There was also no ICT Steering Committee in place.
- The server room was not restricted therefore easily accessible to unauthorized persons.
- The IT section had three (3) officers hence delivery of IT services to the County could be curtailed because of few officers while one officer had been trained on use of IPPD
- The County had received sixteen (16) personal computers from the National Treasury to be used for IFMIS, none had anti-virus software in place.
- The County has in three (3) operating servers at the County Headquarters and at the former County Council of Marakwet and County Council of Keiyo offices. There was no firewall to protect the network from harmful intrusions after establishing an internet connection.
- No established Wide Area Network (WAN) at the County to connect various Sub-County offices although Local Area Networks (LAN) had been installed at the headquarters. Operations in the sub counties are still manual.
- IFMIS, G-pay and IPPD are not yet operational at the County, despite uploading the 2013/2014 budget estimates in the system. No satisfactory reason was given for the delay in using IFMIS.

In order to mitigate the above risks, the County Government should develop and approve the key ICT documents that ensure proper management of IT operations.

Wide area network (WAN) may also be installed that connects all the sub-counties with the county headquarters to ensure the operations are centrally managed. Also all IT systems in place should be fully utilized and all financial operations automated.

3.9 Irregular Payment of Sitting Allowances

Members of the County Assembly were paid sitting allowance for meetings of the whole house (Plenary) in August 2013 contrary to the salaries and remuneration commission guidelines (Reference SRC/TS/CGOVNT/3/16) which allow members to draw sitting allowances on committee meetings only. As a result, payments totalling to Kshs.928,600.00 made to the members of County Assembly are ineligible. The County Government should adhere to the guidelines of the Salaries and Remuneration Commission on payment of salaries and allowances to state officers.

THE DEFUNCT TOWN COUNCIL OF ITEN TAMBACH

3.10 Improper Handing Over to Transition Authority and County Government

The defunct council was supposed to prepare a detailed listing of assets, liabilities and staff to facilitate handing over to the County Governments .However, there was no proper handing over to the Transition Authority. As a result, the County Government has no records of assets and liabilities owned by the former Town Council of Iten Tambach. Arrangements should be made by the Transition Authority to have the assets and liabilities of the defunct local authority officially handed over to the County Government to enable the County Government have a basis of opening balances to be reflected in its books of accounts.

3.11 Cash and Bank Balances

The County Government continued to operate two (2) bank accounts at Kenya Commercial bank-Iten without change of bank signatories. On 26 June 2013, Kshs.3,815,879.00 was transferred to Elgeyo -Marakwet County Government Revenue Account held at KCB Iten branch leaving balances in the accounts totalling to Kshs.17,518.55 as at 30 June 2013. No satisfactory reason was given as to why the two bank accounts were not closed on 28 February 2013. The Transition Authority should ensure that bank reconciliations statements are finalised and accounts closed without further delay.

3.12 Procurement of Goods and Services

i) Installation of Street Lights

The defunct Council on 18/01/2013 awarded contract for the installation of street lights at Iten town at a cost of Kshs.1,000,000.00 which was paid in full vide cheque No.002030 dated 28/02/2013. However, procurement details including evaluation and award were not made available for audit review. It is not clear therefore how the contractor was identified and awarded the contract.

ii) Procurement of Tractor and Trailer

The defunct Council purchased a tractor and trailer at a total cost of Kshs.3,377,062.00. However, no bids were invited in accordance with the Public Procurement and Disposal Act, 2005 to ensure interested suppliers participate in free and fair procurement process and value for money is realised.

iii) Valuation of Council Assets and Networking Accessories

Service for valuation of council assets service and installation of network (LAN) accessories valued at Kshs.472,410.00 and Kshs.150,200.00 respectively, was paid for on 14 February 2013. However, no quotations were issued indicating that the procurement was through single source basis contrary to section 74 (1) of the Public Procurement and Disposal Act, 2005.

The County Government should ensure that all future procurements of goods, services and works are done in accordance with the requirements of the prevailing procurement procedures contained in the Public Procurement and Disposal Act, 2005.

THE DEFUNCT COUNTY COUNCIL OF KEIYO

3.13 Non Closure of Bank Accounts

Six (6) bank accounts maintained by the defunct council were not closed by 28 February 2013 as directed by the Transition Authority, instead, on 25 June 2013 funds totalling to Kshs.8,550,743.65 was transferred to County Revenue Fund accounts leaving a balance of Kshs.45,759.65 in the accounts as at 30 June 2013. The accounts should be closed without further delay and bank reconciliations finalised to validate revenue paid into these accounts and payments made.

3.14 Debtors balances

The debtor's balances increased from Kshs.90,502,907.00 as at 28 February 2013 to Kshs.91,010,883.00 as at 30 June 2013. The debtors listed included plot rent and rates, Sundry debtors, outstanding staff salary advances and imprests. However, debtor ledgers and LAIFOMS system were not updated. Appropriate systems for recording debtors by the County Government should be developed in order to ensure accuracy of balances. Also, debt collection policy should be put in place to facilitate collection of County debts as and when they fall due.

3.15 Outstanding Creditors and accruals

The list of creditors made available for audit indicated a sum of Kshs.1,851,806.00 outstanding as at 28 February 2013. However, the balance include Kshs.1,160,461.00 owed to statutory bodies which was not analysed, while audit fees outstanding since 2012 totalling to Kshs.796,000.00 was not disclosed.

The County Government should ensure that ledgers are updated and reconciliation on creditors' balances done to ensure that only genuine and valid creditors are paid. Also audit fee due should be paid without further delay.

3.16 Non-compliance with Public Procurement Procedures

Furniture and a motor vehicle valued at Kshs.1,297,000.00 and Kshs.5,514,715.00 respectively were procured on a single source basis contrary to Section 74(1) of the Public Procurement and Disposal Act, 2005.

All future procurements of goods and services should be done in accordance with the set procedures.

3.17 Other Audit Finding – Nugatory Expenditure

An amount of Kshs.785,165.00 was paid to Local Authorities Provident Fund (LAPF) levied as interest and penalties on late payment of pension deductions for the period between November 2011 and June 2012.

The County Government should ensure that statutory deductions are paid within the stipulated time to avoid unnecessary expenditure.

THE DEFUNCT COUNTY COUNCIL OF MARAKWET

3.18 Failure to hand over to Transition Authority and County Government

The defunct County Council of Marakwet ceased operation effective 4 March 2013 and was expected to prepare statement of assets and liabilities for handing over to the County Government. No formal handing over of the assets and liabilities to the Transition Authority had been done as at the time of audit in September 2013. As a result, the County Government has no opening balances of assets and liabilities owned by the former County Council. Arrangements should be made by the Transition Authority to have the assets and liabilities of the defunct local authority officially handed over to the County Government to enable the County Government have a basis of opening balances to be reflected in its books of accounts.

3.19 Cash and bank Balances – Failure to close Bank Accounts

The County Council seven (7) bank accounts comprising of Local Authority Transfer Fund (LATF) and General Rate Fund (GRF) were still in operation up to 25 June 2013. On the same date, funds in the seven bank accounts amounting to Kshs.40,820,280.55 were transferred to County Revenue account leaving a balance in the accounts totalling to Kshs.264,734.00. Although these accounts were inactive as at the time of conclusion of audit in September 2013, they should be closed and all funds swiped to the County Revenue Fund account.

3.20 Procurement of Goods and services

i) Contract for installation of street lights

The defunct county council of Marakwet in October 2012 awarded contract for the installation and commissioning of four (4 No.) 25M high mast flood lights at Kapsowar market, Kapsowar primary school, Tot and Chebiemit market centres at a cost of Kshs.2,946,574.00. The contractor had been paid a total of Kshs.2,445,656.00 as at September 2013 for the works done. However, no written contract agreement was signed between the council and the contractor. In absence of contract agreement, it is not clear how the works was to be executed and paid for. Further, physical inspection carried out on 23 August 2013 showed that three (3) out of four (4) flood lights masts installed were not working while one (1) was not properly focused to light the streets. No action seems to have been taken to compel the contractor to replace or rectify the faulty flood lights.

ii) Construction of stone wall at Kapsowar

Tender for the construction of stone wall to prevent soil erosion and landslide at Kapsowar office was competitively awarded on 5 July 2012 at a sum of Kshs.1,250,364.00. No contract agreement was signed between the council and the contractor. According to available information, the contractor started the works in January 2013; seven (7) months after the award of the tender. No reason was provided for the delay in commencement of the construction. Further, physical verification carried out on 23/8/2013 revealed that the construction was about 75% level of completion while Kshs.1,159,088.00 or 93% of the contract sum had been paid. The contractor abandoned the construction and was not on site at the time of audit.

The County Government should ensure that the two projects are completed to serve the intended purpose. Further, to ensure that the public realise value for money, all future procurement of goods and services should be done in accordance with the provisions of the Public Procurement and Disposal Act, 2005 and related 2006, 2013 regulations.

3.21 Goods not taken on charge

The defunct County Council of Marakwet procured spare parts and four tyres for motor grader worth Kshs.909,124.00. The goods were however not entered in the stores records showing quantities received, issued and current balances. The County Government should ensure that systems are developed which will facilitate proper recording and management of stores and inventory to prevent loss or misappropriation of public property.

4.0 Conclusion

The audit has revealed that poor book keeping was very much evident in the defunct Local Authorities and appears to exist in the County Government. Financial controls are also weak as no financial policies have been formulated by the County Treasury that would help to strengthen the existing laws and regulations in ensuring full

accountability of public resources. In addition the adoption of technology is very low and the county government has not put in place mechanisms to improve the situation. It is also clearly evident that the process of taking over of assets and liabilities, including staff of the former Councils was not properly handled due to apparent lack of leadership by officials of Transition Authority who had the responsibility to ensure a smooth and seamless transition process. The County Government should however ensure full control of functions, including revenue collection, recording and proper accounting for the same while awaiting guidance from the National Treasury based on the accounting and reporting systems to be developed by the Public Sector Accounting Standards Board in accordance with Section 194 of the Public Finance Management Act, 2012. Further, the expenditure should be incurred in accordance with the requirements of the Public Finance Management Act, 2012.

Detailed audit findings are contained in the main audit report herewith appended.



Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

17 March, 2014

DETAILED AUDIT REPORT OF THE AUDITOR-GENERAL ON OPERATIONS OF ELGEYO MARAKWET COUNTY GOVERNMENT AND ITS DEFUNCT LOCAL AUTHORITIES FOR THE PERIOD 1 JANUARY TO 30 JUNE 2013

1.0 Audit Objectives

The following were the main audit objectives:

- Confirm existence of proper accountability of cash and bank balances before, during and after transition to the County Government.
- Confirm that revenue and expenditure were recorded and properly accounted for before, during and after the transaction period.
- Confirm that operational debtors and creditors were accurately recorded and transferred from the defunct local authority to County Government.
- Establish that assets taken over by the County Government are properly listed, exist and are being used to provide services to the County.
- Ensure that assimilation of the defunct local authority's staff with other county government staff is seamless and no ghost workers or irregular change of terms have been imported in the new IPPD system.
- Ensure that the County Assembly and Executive Committees comply with the budget and that expenditures are properly charged to County Revenue Fund.
- Ensure that ICT system is not circumvented by manual system where IFMIS and G – Pay systems are fully implemented.
- Confirm that where manual systems are in use, proper accountability system is put in place and specific plans for system changeover exist.
- Confirm that procurement of goods and services is done in accordance with the Public Procurement and Disposal Act, 2005, and related 2006 and 2013 Regulations.

2.0 DETAILED AUDIT FINDINGS

ELGEYO MARAKWET COUNTY EXECUTIVE AND ASSEMBLY

2.1 Handing over of assets and liabilities to County Government

All local authorities were supposed to prepare a detailed listing of assets, liabilities and staff to facilitate handing over to the County Governments in accordance with the Ministry of Local Government Circular No. MLG/1333/TY/52 of 18 February 2013. However, all the three local authorities under Elgeyo Marakwet County did not prepare the required lists of assets and liabilities and therefore no proper hand over

was done; instead the County Government had taken over some noncurrent assets from the former local authorities without proper recording and validation.

In the circumstances, the completeness, accuracy and validity of assets and liabilities taken over by the County Government could not be confirmed.

Recommendation

The Transition Authority should ensure that accurate statement of assets and liabilities as at 28 February 2013, is prepared by the relevant Council officials and that a proper handing over/taking over is done to enable the County Government have a basis of opening balances to be recorded in the books of account.

2.2 Cash and Bank Balances

(a) Funding

The County Government received a total of Kshs.184,761,998.00 from the National Treasury during the period between April to June 2013 and it spent Kshs.130,136,909.00 on various expenditure items. The resultant difference of Kshs.54,625,089.00 was transferred back to Central Bank Agency Account in two (2) tranches of Kshs.46,027,502.00 and Kshs.8,597,587.00 on 15 July and 6 August 2013 respectively.

(b) Bank accounts

The County was authorized by the National Treasury to operate six (6) bank accounts. As at 30 June 2013, balances amounting to Kshs.112,943,610.90 were in the accounts arrived at as below:

	Details	Bank	Account No.	Cashbook balance as at 30 June 2013 (Kshs)
1.	County Revenue Fund Account	CBK	1000171723	0
2.	County Recurrent Account	CBK	1000171421	0
3.	County Development Account	CBK	1000171391	0
4.	County Standing Imprest Account	KCB	1140794779	54,625,089.00
5.	County Revenue Account	KCB	1140751360	16,453,015.90
6.	LATF Account	KCB	11422223353	41,865,506.00
	Total			112,943,610.90

However, the cash book and monthly bank reconciliation statements for County revenue bank account were not maintained during the period and therefore closing balances as at 30 June 2013 could not be confirmed.

(c) Lack of independence of County Assembly in management of finances

The County Assembly expenditure decisions on procurement and payments were controlled by the County Executive even though they had their own budget. No evidence was seen authorizing the County Executive to incur expenditure on behalf of the Assembly. Further, separate cashbooks were not maintained to record transactions for County Executive and County Assembly. This is contrary to Section 147 of the Public Finance Management Act, 2012 which require that the accounting officer of the County Assembly shall monitor, evaluate and oversee the management of their public finances.

Recommendation

Separate cashbooks should be maintained for the County Government and County Assembly to ensure proper accountability of funds received and by each unit.

2.3 Debtors and Creditors

Debtors and creditors ledgers were not maintained. There was no information on debtors and creditors transferred from the former local authorities to the County Government as the handing over had not been done as at the time of audit.

Recommendation

Debtors and creditors' ledger should be maintained and updated to ensure accurate balances.

2.4 Staff Establishment and IPPD payroll

The County Government Transition Authority Act, 2012, required validation and head count of staff to be carried out as staff were assimilated into new structures in the County Government. It was established that staff establishment increased from 105 staff in February 2013 to 141 as at 30 June 2013. Consequently, monthly wage bill increased from Kshs.4,698,095.00 in February 2013 to Kshs.14,214,636.00 as at 30 June 2013. The increase by Kshs.9,516,541.00 was attributed to appointment of three (3) new staff, twenty one (21) members of County Assembly and inclusion of the Governor and Deputy Governor in the payroll after the 4 March 2013 general elections. The increase in staff emoluments for former local authorities' staff was due to implementation of new salaries approved by the Ministry of Local Government in September 2012. However, the following was noted:

- (i) Staff head count and validation had not been carried out as at the time of audit in September 2013.
- (ii) Payroll had not been incorporated into the Integrated Personnel Payroll Database (IPPD) system; instead the County Government continued to use the LAIFOMS payroll operated by the former local authorities.

In the circumstances, it has not been possible to confirm the authenticity of the personnel emoluments taken over by the County Government.

Recommendations

The County Government should carry out staff head count in order to ensure that no ghost workers are inherited from the defunct councils. It is also important that job evaluation and assessment is undertaken to facilitate deployment of key staff to relevant departments and also guide in recruitment of staff with required skills and knowledge.

2.5 Unsupported payments

The Government Financial regulations and procedures section 5.5.14 (c) requires that before payment is made, payment vouchers should be supported with appropriate certificates, invoices, receipts and proof of acknowledgement of receipt of goods and services. However, several payment vouchers worth Kshs.1,333,325.00 which were paid in the month of May and June 2013 were not properly supported with relevant documents. The summary of the vouchers is as indicated below:

<u>Month</u>	<u>Details</u>	<u>Amount (Kshs)</u>
May	Subsistence allowance	528,040.00
June	Subsistence and Miscellaneous expenses	<u>805,285.00</u>
	Total	<u>1,333,325.00</u>

Further, imprests issued to various staff amounting to Kshs.1,010,640.00 were paid without proper authorization and were not signed as acknowledgement of receipt of the payment. As a result the authenticity of the following payments could be confirmed:

	Date	Payment Voucher No.	Cheque No.	Amount (Kshs)
1.	18/6/2013	80	000068	24,000.00
2.	19/6/2013	92	000047	90,000.00
3.	19/6/2013	96	000071	130,000.00
4.	29/6/2013	114	000068	35,000.00
5.	29/6/2013	118	000043	82,000.00
6.	29/6/2013	119	000070	209,340.00
7.	29/6/2013	130	000088	115,000.00
8.	29/6/2013	132	000088	44,000.00
9.	29/6/2013	167	000082	221,000.00
10.	29/6/2013	174	000070/75	20,300.00
11.	29/6/2013	182	000072/75	40,000.00
			Total	1,010,640.00

Recommendations

- i) Payments should be properly supported with relevant and authentic documentation.
- ii) The County Government should ensure that authorization of expenditure is obtained before payment is made and proper records maintained at all times.

2.6 Procurement

i) Single Sourcing of goods

The County procured goods and services worth Kshs.40,093,294.90 through single source basis contrary to Section 74(2) of the Public Procurement and Disposal Act, 2005. Details of the procurements are as follows:

a) Purchase of Building Materials

The County Executive awarded tender for supply of sand, ballast and other building materials to a Construction Company based in Item at a cost of Kshs.3,117,100.00. The payment was made vide voucher No. 390 of 30 June 2013. Another company was also awarded tender to supply tiles, box profile iron sheets and DRC Mesh Wire and other fittings at a cost of Kshs.4,675,130.00 and was also awarded tender to supply of ridges nails ceramic tiles and union locks at a further cost of Kshs.1,146,700.00. Payment was made vide voucher no. 285 dated 29 June 2013. However in both cases procurement was done through restricted tenders instead of competitive bidding contrary to Public Procurement and Disposal Act, 2005.

b) Purchase of motor vehicles

The County Executive purchased four (4) vehicles from Toyota Kenya at a cost of Ksh.26,292,115.00. Details of the vehicles is given below:

	Vehicle	Reg. No	Amount (Kshs)
1	Toyota Prado	GK B 706D	10,214,450.00
2	Toyota Fortuner	GK B 758D	5,281,475.00
3	Toyota Fortuner	GK B 757 D	5,281,475.00
4	Toyota Rav 4	KBU 714 T	<u>5,514,715.00</u>
	Total		<u>26,292,115.00</u>

Although the management submitted that the County used Government used GoK Supplies Branch recommended ceilings, there was no evidence of open competitive tendering as required by Public Procurement and Disposal Act, 2005.

c) Installation, Testing and commissioning of Solar Panels fitted with advertising panel

The County Executive contracted a Nairobi based company to install test and commission solar panels at a cost of Kshs.4,862,249.90. However, no competitive tendering was done. Although the management submitted that cheque No. 000186

dated 30 June 2013 for the full contract sum of the works was drawn in advance as commitment, the transaction amounts to actual advance payment contrary section 5.5.14 to the Government Financial Regulations and Procedures.

Recommendation

The Public Procurement and Disposal Act, 2005 and related 2006 and 2013 regulations requirements should be followed on all procurements made by the County Government.

ii) Contracts for the construction of County offices – irregular Procurement

a) Construction of County Assembly Cafeteria and Guard Room

The County Assembly contracted a contractor to construct a gate and guard room at County Assembly at a cost of Kshs.1,228,673.00 which was paid vide voucher No.312 and cheque No. 165 dated 29 June 2013. Further, a second company was hired to construct cafeteria at a cost of Kshs.4,159,840.00. However, the construction had not commenced as at the time of concluding the audit on 27 September 2013. Again in both cases, although the management submitted that cheques for the full contract sums were drawn in advance as commitment, the transactions were done contrary to section 5.5.14 to the Government Financial Regulations and Procedures.

b) Construction of County Offices.

The County Executive contracted a Construction Company located at Iten to construct County executive offices at a cost of Kshs.4,359,580.40 and payment was made vide voucher No.280 dated 29 June 2013.

Another company was awarded a contract to fence erect a gate and construct pit latrines at a sum of Kshs.2,316,401.60 which was paid vide voucher No. 384 dated 30 June 2013.

The above works were procured through quotations, even though the value was above the threshold of Kshs.2,000,000.00 for class A entities as per the first schedule of the Public Procurement and Disposal Regulations, 2006 and would have necessitated floatation of open tenders. In addition, Ministry of Public Works was not involved in the procurement process and certification of works carried out.

Recommendations

- The Public Procurement and Disposal Act, 2005 and related 2006 and 2013 regulations requirements should be followed on all procurements made by the County Government.
- Ministry of Public Works should be involved in design, award and monitoring of specialized works.
- The County Government should also develop an annual procurement plan to guide in procuring of goods and services.

2.7 Information and Communication Technology ICT

Assessment of how the County has put in place structures to govern and manage the information systems revealed the following weaknesses:

(a) Management of IT Control Environment

- i) The County was yet to develop and implement some of the key ICT documents including: ICT policies and procedures, ICT Strategic Plan, Business Continuity Policies (BCP) and Disaster Recovery Plans (DRP).
- ii) There was also no ICT Steering Committee in place.
- iii) The server room did not have adequate physical access controls.
- iv) The IT section had three (3) officers hence delivery of IT services to the County could be curtailed because of few officers.

(b) Hardware

i. Computers

The County had received sixteen (16) desktop computers from The National Treasury (IFMIS Department) intended for implementation of IFMIS. However, none had anti-virus software in place.

ii. Data Centre

The County has three (3) operating servers at the County Headquarters and at the former County Council of Marakwet and County Council of Keiyo offices. There was no firewall to protect the network from harmful intrusions after establishing an internet connection.

(c) Network connectivity

There was no established Wide Area Network at the County to connect various Sub-County offices even though Local Area Networks had been installed at the headquarters. Operations in the sub counties are still manual.

(d) Integrated Financial Management Information System (IFMIS)

Active Module

Elgeyo Marakwet County prepared its 2013/2014 budget using Plan to Budget module. The rest of the modules were yet to be utilized and the financial operations were still manual. The County connectivity signal through Orange was significantly weak in the region, therefore limiting the usage of the system.

e) G-pay

The County had received two computers from The National Treasury which have been configured for G-Pay. The County is yet to begin using the system. Four officers had undergone the required training.

f) Local Authority Integrated Financial Operations Management System (LAIFOMS)

LAIFOMS has been installed in two of the former local authorities namely; Keiyo County Council in Keiyo North Sub-County and Marakwet County Council in Marakwet West Sub County offices. The system was not fully implemented. Receipting and the Personnel Management Modules were the only active modules.

g) Integrated Payroll and Personnel Database (IPPD)

IPPD system had not been used although keying in of staff data was in progress as at the time of audit. One officer in the payroll department had been trained on the use of the system. This is considered inadequate and may lead to inefficient IT operations.

Recommendations

- All Sub-County Offices should have adequate infrastructure and LAN to facilitate automation of the County operations.
- The County should ensure that all its Sub-County offices are inter-connected to the head office to ensure efficient monitoring of each Sub-County processes.
- The County should ensure that all computers received for the IFMIS roll out are configured and dispatched to the users.
- The router in place should be configured to prevent and detect harmful intrusions. And adequate physical access and environmental controls in the server room need to be put in place.
- All IT systems in place should be fully utilized and all financial operations automated.
- The ICT Department should ensure that all machines are installed with anti-virus software to prevent the risk of virus attacks.
- The County management should take control of the management of LAIFOMS previously installed in the former local authorities so as to ensure that all revenue collected is accounted for.
- The County should carry out a data clean-up of its human resource data to ensure the integrity of the payroll data.

2.8 Irregular payment of sitting allowances

Expenditure records maintained by the County indicate that members of the County Assembly were paid sitting allowance for meetings of the whole house (plenary) in August 2013 contrary to the salaries and remuneration commission guidelines (Reference SRC/TS/CGOVNT/3/16) which allow members to draw sitting allowances on committee meetings only. As a result, payments totalling to Kshs.928,600.00 made to the members are ineligible. The cut-off test confirmed the following:

Month	Cheque No.	Amount (Kshs)
August	000335	332,000.00
August	000336	247,100.00
August	000337	<u>349,500.00</u>
Total		<u>928,600.00</u>

Recommendation

The County Government should adhere to the guidelines of the Salaries and Remuneration Commission on payment of salaries and allowances to state officers and recover any ineligible payments made to the Members of the County Assembly.

FORMER TOWN COUNCIL OF ITEN TAMBACH

2.9 Improper Handing over to Transition Authority and County Government

There was no proper handing over of the former Town Council of Iten Tambach assets and liabilities to the Transition Authority as required by the Ministry of Local Government Circular No. MLG/1333/TY/52 of 18 February, 2013. As a result, the County Government has no records of assets and liabilities owned by the former Town Council of Iten Tambach.

Recommendation

The Transition Authority should arrange for proper handing over of assets, liabilities and staff of the former County Council to the County Government to enable the County Government have a basis of opening balances reflected in its books of account.

2.10 Non-closure of council bank accounts

The defunct Town Council of Iten Tambach had two (2) bank accounts at Kenya Commercial bank-Iten. The accounts were not closed by 28 February 2013 as instructed by the Transition Authority, instead, on 26 June 2013, funds in the two accounts amounting to Kshs.3,815,879.00 was transferred to County Revenue Account leaving a balance of Kshs.17,518.55 in bank accounts as at 30 June 2013. No reason was given as to why the two bank accounts were not closed on 28 February 2013 or upon expiry of three months at the end of the month of May 2013 to finalize reconciliations, considering that the Council was dissolved on 4 March 2013.

Recommendations

- The Provisions of the County Governments Public Finance Management Transition Act, 2013 should be adhered to when effecting any transactions.
- Reconciliations should be carried out and all bank accounts of former council closed.

2.11 Procurement

(i) Procurement of Street Lights -Kshs.1,000,000.00

The defunct Council on 18/01/2013 contracted an electrical company to install street lights at a total cost of Kshs.1,000,000.00 which was paid in full vide cheque No.002030 dated 28/02/2013. However, procurement details including, evaluation and award were not made available for audit review.

In absence of evidence of competitive bidding, the defunct council single sourced the works contrary to section 74 (1) of the Public Procurement and Disposal Act, 2005.

(ii) Procurement of a tractor and trailer - Kshs.3,477,062.00

The defunct Council paid Kshs.2,685,000.00 and Kshs.792,062.00 to an Agri-company for the supply of a trailer and a tractor respectively. However, in both cases, no competitive bids were invited contrary to section 74 (1) of the Public Procurement and Disposal Act, 2005.

In the circumstances, it was not possible to confirm whether value for money was realized in the above payments.

(iii) Valuation of Council Assets and Networking Accessories

The defunct Council contracted a valuer to value its assets at a contract price of Kshs.472,410.00 which was paid on 14/02/2013 vide cheque Nos. 2016 and 2017 for Kshs.201,182.00 and Kshs.271,228.00 respectively. Another tender for network accessories was awarded to a n IT company at a cost of Kshs.150,200.00 which was paid through voucher No.24 dated 14/02/2013. The suppliers were single sourced in contravention of Section 74 (1) of the Public Procurement and Disposal Act, 2005.

In all the above procurements, correct and complete specification of goods and services were not prepared as required. It was not possible therefore to establish whether the council received value for money in the above transactions.

Recommendation

The Public Procurement and Disposal Act, 2005 and related 2006 regulations requirements should be followed on all procurements made by the County Government.

THE DEFUNCT COUNTY COUNCIL OF KEIYO

2.12 Improper Handing Over to the County Government

As at the time of conclusion of the audit on 14 September 2013, no proper handing over of the former County Council of Keiyo assets, liabilities and staff to the Transition Authority as required by the Ministry of Local Government Circular No. MLG/1333/TY/52 of 18 February, 2013. The accuracy of assets and liabilities handed over to the County Government and which should for the opening balances in the books of account could not be confirmed.

Recommendation

- The Transition Authority to ensure that former Chief Officers of the defunct Local Authority properly hand over the assets and liabilities.
- There should be full disclosure of the former Council's outstanding debts to ensure that the County Government only inherits genuine debts.

2.13 Non-closure of Council Bank Accounts

Six (6) bank accounts maintained by the Council at KCB-Iten branch were not closed by 28 February 2013; instead, on 25 June 2013 funds in the accounts amounting to Kshs.8,550,743.65 were transferred to County Revenue Fund account leaving a balance of Kshs.45,759.65 arrived at as follows:

Type of Account	Account No.	Amount transferred to County Revenue Fund Account on 25/6/2013 Kshs.	Bank Statement Balance as at 30/06/2013 Kshs.
LATF	1106931319	6,529,312.00	9,349.65
GRF Main Account	1106936272	1,957,403.00	8,860.00
Grader account	1106936213	21,284.65	9,350.00
Renewal Fund	1134884621	31,450.00	9,350.00
Rimoi National Reserve	1114101168	3,984.00	(500.00)
KKV	1124593632	7,310.00	9,350.00
TOTAL		8,550,743.65	45,759.65

No reason was given as to why the six bank accounts were not closed on 28 February 2013 or upon expiry of three months at the end of the month of May 2013 to finalize reconciliations, considering that the Council was dissolved on 28 February 2013.

Further, cashbook and bank reconciliation statements were not maintained for Renewals Fund and Rimoi Reserve bank accounts.

Recommendation

- The Provisions of the County Governments Public Finance Management Transition Act, 2013 should be adhered to when effecting any transactions.
- Reconciliations should be carried out and all bank accounts operated by the former council be closed.

2.14 Outstanding Debtors

The debtor's balances increased from Kshs.90,502,907.00 as at 28 February 2013 to Kshs.91,010,883.00 as at 30 June 2013. Details of the debtors is given below:

Details	Balance as at 28 February 2013 (Kshs)	Balance as at 30 June 2013 (Kshs)
1 Plot rent and rates	27,235,500.00	27,235,500.00
2 Contribution in lieu of rates	57,899,450.00	57,899,450.00
3 Sundry debtors	4,406,613.00	4,914,589.00
4 Imprests	961,344.00	961,344.00
Total	90,502,907.00	91,010,883.00

However, debtor ledgers, control accounts and LAIFOMS system were not updated. In the circumstances the accuracy and completeness of the debtors to be handed over to County Government as at 28 February 2013 could be confirmed.

2.15 Outstanding creditors and accruals

According to the list prepared by the defunct council, the creditors balances decreased from Kshs.8,344,246.00 as at 30 June 2012 to Kshs.1,851,806.00 as at 30 June 2013 as analysed below:

Creditor	Balance as at 30 June 2013 (Kshs)	Balance as at 30 June 2012(Kshs)
1 Suppliers of goods and services	156,700.00	1,213,540.00
2 House rent	115,500.00	0
3 Unpaid statutory Deductions	1,160,461.00	7,130,706.00
4 KRA-Unpaid VAT	419,145.00	0
Total	1,851,806.00	8,344,246.00

It was however, the balance of Kshs.115,500.00 listed as house rent, was actually income deducted from staff occupying the Council houses, erroneously shown under creditors.

Further, the council did not disclose KENAO audit fees balance amounting to Kshs.796,000.00, while the statutory deductions of Kshs.1,160,461.00 were not supported with schedules and ledgers.

In the circumstances, the validity of creditors and accruals balance which was to be taken over by County Government could not be confirmed.

Recommendations

- Creditors' ledger should be maintained and updated to ensure accurate balances.
- Reconciliation on creditors' balances should be carried out to ensure that genuine and valid creditors are taken over by County Government.

2.16 Single Sourcing of Goods and Services

The defunct County Council of Keiyo procured furniture and motor vehicle for County Assembly through single source basis contrary to section 74 of the Public Procurement and Disposal Act, 2005. Furniture worth Kshs.1,297,000.00 and a motor vehicle registration number KBU 714D valued at Kshs.5,514,715.00 were single sourced.

In absence of properly evaluated quotations, it has not been possible to establish whether the suppliers were the most competitive sources.

Recommendation

The Public Procurement and Disposal Act, 2005 and related 2006 regulations requirements should be followed on all procurements made by the County Government and an annual procurement plan developed to guide in procuring of goods and services.

2.17 Nugatory Expenditure

The defunct Council paid Local Authorities Provident Fund (LAPF) a sum of Kshs.785,165.00 vide voucher No. 0059 dated 17 July 2012. The payment was for interest and penalties levied on the council for late statutory remittances of pension deductions during the period November 2011 to June 2012. Provident fund regulations require payments by the 10 day of every month, but the council did not adhere to the set time limit.

The management of the former council therefore did not exercise prudence in use public resources which led to avoidable expenditure.

Recommendation

The County Government should ensure that statutory deductions are paid within the stipulated time to avoid unnecessary penalties and interest.

THE DEFUNCT COUNTY COUNCIL OF MARAKWET

2.18 Failure to hand-over to Transition Authority and County Government

According to Ministry of Local Government directive dated dated 18 February 2013, the council was supposed to prepare a detailed listing of assets, liabilities and staff to facilitate handing over to the County Governments. However, no formal handing over

of the assets and liabilities to the Transition Authority had been done as at the time of audit in September 2013. As a result, the County Government has no opening balances of assets and liabilities owned by the former County Council.

Recommendation

The Transition Authority should arrange for proper handing over of assets, liabilities and staff of the former County Council to the County Government to enable the County Government have a basis of opening balances reflected in its books of account.

2.19 Non closure of Bank accounts

The defunct County Council of Marakwet operated seven (7) bank accounts. The accounts were not closed by 28 February 2013 as instructed by the Transition Authority, instead, on 25 June 2013 funds in the accounts amounting to Kshs.40,820,280.55 was transferred to County Revenue Fund account leaving a balance of Kshs.264,734.00 arrived at as follows:

Bank Details	Account No.	Cashbook Balance- 28/2/2013 (Kshs)	Transferred to County Revenue Fund 25/6/2013 (Kshs)	Bank statement Balance on 30/6/2013 (Kshs)
1. Salaries Account	1103280791	3,007,707.35	3,191,175.35	4,950.00
2. Kazi kwa Vijana	1124025421	1,703,279.00	1,693,079.00	10,000.00
3. Road Maintenance	1103276689	507,361.90	603,021.90	10,000.00
4. Renewals Fund	1117670163	12,775,367.00	472,452.15	10,000.00
5. Cess Fund	1102975273	1,577,984.40	2,747,835.15	204,262.00
6. LATF	1103285858	44,475,977.00	32,112,717.00	9,350.00
7. GRF	1103280155	2,912,084.70	-	16,172.00
		66,959,761.55	40,820,280.55	264,734.00

Even though cashbooks and bank reconciliations were updated, no reason was given as to why the seven bank accounts were not closed on 28 February 2013.

Recommendation

The County Government should ensure that all the bank accounts are closed without further delay.

2.20 Procurement of Goods and services

a) Contract for installation of street lights

Examination of records of the defunct showed that an Auto company was awarded contract No. CCM04/2012/2013 in October 2012 for the installation and commissioning of 4 No. 25M high mast for street light (flood lights) at Kapsowar market, Kapsowar primary school, Tot and Chebiemit markets centres at a contract price of Kshs.2,946,574.00. The contractor commenced work in November 2012. Expenditure on the contract totalling to Kshs.2,445,656.00 had been paid as at 23 August 2013.

It was however, noted that no written contract agreement was signed between the council before commencement of work contrary to the Public Procurement and Disposal Act, 2005. In absence of contract agreement, it is not clear how the work was to be executed, the duration of the contract or how it was to be paid for.

Further, physical inspection carried out on 23 August 2013 showed that three (3) out of four (4) flood lights masts installed were not working while one (1) was not properly focused to light the streets. In addition the works were not certified by an Inspection and Acceptance committee.

It was not possible therefore to confirm that the public got value for money in the above transaction.

Recommendation

- The Public Procurement and Disposal Act, 2005 and related 2006 regulations requirements should be followed on all procurements made by the County Government.
- The County Government takes appropriate measures to ensure that the street lights replaced so as to serve the intended purpose.

b) Incomplete Project

Tender number CCM 28/2012/2013 for the construction of stone wall to prevent soil erosion and landslide at Kapsowar office was competitively awarded on 5 July 2012 at a sum of Kshs.1,250,364.00. No contract agreement was signed between the council and the contractor contrary to Section 68(1) of the Public Procurement and Disposal Act, 2005. According to available information, the contractor started the works in January 2013; seven (7) months after the award of the tender and no reason was provided for the delay in commencement of the construction. Further, physical verification carried out on 23/8/2013 revealed that the construction was about 75% level of completion while Kshs.1,159,088.00 or 93% of the contract sum had been paid vide cheque number 001201 of 26 February 2013. The contractor abandoned the construction and was not on site at the time of audit.

It is not clear therefore how the contract was to be executed in absence of a valid contract.

Recommendation

The Public Procurement and Disposal Act, 2005 and related 2006 regulations requirements should be followed on all procurements made by the County Government and construction completed expeditiously to serve the intended purpose.

2.21 Goods not taken on charge

The defunct Council procured spare parts and four tyres for motor grader at a total cost of Kshs.909,124.00. Four tyres worth Kshs.258,000.00 procured from a tyre supplier and spare parts purchased from another auto company valued at Kshs.651,000.00 were not entered in the stores records showing quantities received, issued and current balances. As a result, it could not be established whether goods were received and used for the intended purposes.

Recommendation

The County Government should ensure that stores records are opened and all purchases are recorded to reflect the accurate balances at any given time.

3.0 Conclusion

From the foregoing audit findings, it is clear that the process of taking over of assets and liabilities of the defunct local authorities was not properly planned and organized. According to Transition to Devolved Governments Act, 2012, it was the responsibility of the Transition Authority to oversee the takeover of the functions, assets, liabilities and staff of the former Local Authorities by the County Governments after the March 4, 2013 general elections.

Similarly, accordance to Section 194 of the PFMA, 2012, the Public Sector Accounting Standards Board is charged with the mandate of developing model accounting and reporting systems for the National Treasury which shall be adopted by the County Government in order to ensure standards applicable across the County Governments. This had not been done. But in spite of these challenges, the County Government of Elgeyo Marakwet should take control of functions, including revenue collection, recording and proper accounting for the same.

I wish to thank the management of Elgeyo Marakwet County for their cooperation and assistance extended to my staff during the period of this important audit assignment.

A handwritten signature in black ink, appearing to read 'E. O. Ouko', with three dots below the name.

Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

17 March, 2014