Independent Reporting Mechanism (IRM): Elgeyo Marakwet Design Report 2018–2020

Ruth Kendagor, University of Eldoret
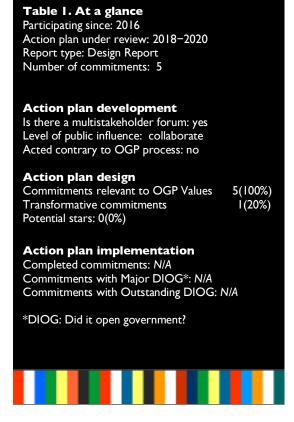
Table of Contents

Open Government Partnership

Executive Summary: Elgeyo Marakwet, Kenya

Overall, the IRM found significant improvements in the co-creation process of this action plan. Areas for improvement include designing commitments to increase ambition and potential for transformative results. That said, the IRM also views current commitments on procurement and public health services as opportunities to leverage the OGP platform for transparency and accountability in the response and recovery efforts during the Coronavirus pandemic.

The Open Government Partnership (OGP) is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Elgeyo Marakwet joined OGP in 2016. Since 2016, Elgeyo Marakwet has implemented one action plan. This report evaluates the design of Elgeyo Marakwet's 2018–2020 second action plan.

General overview of the action plan

The action plan matches the open government context in Elgeyo Marakwet. Three commitments seek to increase transparency and accountability in public procurement, healthcare service delivery, planning, and budgeting; the other two commitments strive to widen civic engagement and enhance access to empowerment opportunities for youth, women, and persons living with disabilities to play a role in governance.

Table 1. At a glance
Participating since: 2016
Action plan under review: 2018–2020
Report type: Design Report
Number of commitments: 5

Action plan development
Is there a multistakeholder forum: yes
Level of public influence: collaborate
Acted contrary to OGP process: no

Action plan design
Commitments relevant to OGP Values   5(100%)
Transformative commitments   1(20%)
Potential stars: 0(0%)

Action plan implementation
Completed commitments: *N/A*
Commitments with Major DIOG*: *N/A*
Commitments with Outstanding DIOG: *N/A*

*DIOG: Did it open government?

The co-creation process for Elgeyo Marakwet was highly structured and well organized. The OGP trust fund was awarded to the Centre for Innovations in Open Governance (CIOG) to support the co-creation. The fund majorly contributed to wider engagement in Multistakeholder Forum membership, and broadened the consultation process beyond that of the first action plan. An online document repository for the action plan and improvements in convening meetings are still needed.

The co-creation approach allowed inclusion of commitments from civil society organizations (CSOs). The final commitments match the policy areas prioritized by both government and civil society.

Table 2. Noteworthy commitments

Commitment description	Moving forward	Status at the end of implementation cycle
Commitment 1: Promote transparent and accountable public procurement processes and facilitate public oversight on project management	The commitment introduces several activities that are improvements in opening up public procurement. However, it is not transformative as it lacks a few key aspects, including a detailed grievance redress mechanism. If this mechanism is included, this commitment has the potential to transform institutional and standard practices in public procurement that facilitate transparent, equal, and fair access to opportunities. In addition, given the current health crisis due to the COVID-19 pandemic, this commitment presents an opportunity to build a transparent procurement process for emergency procurements.	*Note: this will be assessed at the end of the action plan cycle.*

Recommendations

The IRM recommendations aim to inform the development of the next action plan and guide implementation of the current action plan.

Table 3. Five KEY IRM Recommendations

Establish an OGP webpage on the county website
Establish a legal mandate for continuity of open governance initiatives
Establish a strategy to fund implementation and design of action plans
Implement activities to demonstrate changed government practices and the impact on citizens and intended beneficiaries
Design and implement specific, measurable activities that demonstrate and promote accountability

ABOUT THE AUTHOR

This report was prepared by Ruth Kendagor, a lecturer with University of Eldoret.

The Open Government Partnership (OGP) aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP's Independent Reporting Mechanism (IRM) assesses development and implementation of national action plans to foster dialogue among stakeholders and improve accountability.

Open Government Partnership

I. Introduction

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Civil society and government leaders use the evaluations to reflect on their own progress and determine if actions have made an impact on people's lives.

Elgeyo Marakwet joined OGP in 2016. This report covers the development and design of Elgeyo Marakwet's second action plan for 2018–2020.

The Independent Reporting Mechanism of OGP has partnered with Ruth Kendagor (University of Eldoret), who carried out this evaluation. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. For a full description of the IRM's methodology, please visit https://www.opengovpartnership.org/about/independent-reporting-mechanism.

II. Open Government Context in Elgeyo Marakwet

The open government values of transparency, access to information, civic participation, and accountability are key policy areas that are articulated in several Elgeyo Marakwet legal instruments.[1] Similarly, the Constitution of Kenya (2010)[2] provides all Kenyans rights in each of these areas. The legal instruments are backed by administrative structures that operate at both the national and county level.

The various legislative frameworks are supported by administrative structures that promote adherence to the principles of open government. Civic space in Kenya is protected through institutions such as the Kenya National Commission for Human Rights.[3] Government agencies are bound by law to incorporate practices and activities that enhance transparency and access to information. Civic participation was largely incorporated in government processes after the promulgation of the 2010 constitution and transition toward devolved governance. This is evident from the public participation exercises conducted across all counties.[4] Accountability is supported by institutions such as the Ethics and Anti-Corruption Commission (EACC)[5] and the Commission for Administrative Justice (CAJ).[6] In addition, there are citizen oversight mechanisms that include: petitions, which may take the form of administrative petitions, parliamentary petitions, or parliamentary recall petitions; public interest litigation; judicial reviews; and social audits.[7]

Beyond these national laws and administrative frameworks, Elgeyo Marakwet has taken additional steps to embrace open governance in its processes by developing and implementing county specific frameworks. The county government has established legislation such as the Public Participation Act (2014)[8] and the Equitable Development Act (2015),[9] which provide specific guidelines for citizen participation. These laws have enabled the county government to conduct participatory budgeting and decision-making, where up to 40% of the county development budget is prepared through an intensive public participation framework. Elgeyo has also advanced access to information by publishing budget information on the county website. The International Budget Partnership reported Elgeyo as the only county to have published all seven of the county's budget documents.[10] In addition, legislation prepared by the county assembly is subjected to rigorous public consultation before becoming law. The County ICT roadmap (2015−2020)[11] and the draft ICT policy seek to advance transparency and access to information. The ICT roadmap, for instance, identifies flagship projects to be undertaken by the county, such as establishing information centers, incubation centers, e-learning systems, bulk Short Message System (SMS) systems, Unstructured Supplementary Service Data (USSDs) and social media platforms, an integrated health management system, and connectivity between all administrative units.[12] The draft ICT policy additionally considers the framework for streamlining public information to include access by special interest groups such as the physically challenged.[13]

Since joining OGP in 2016, Elgeyo Marakwet has made progress in implementing both national and county legislative frameworks for access to information and civic participation. Through its first action plan, Elgeyo advanced from sharing budget documents in hard copies to publishing budget, audits, and project information, and providing simplified versions of budget documents for easier understanding by all citizens. Procurement officials have since published information on the county website, and gone further to simplify procurement and tender documents.[14] The directorate of public participation coordinated the development of public participation guidelines to enhance the representation of citizen groups in local governance.

The county government, through its communications directorate, developed feedback mechanisms to receive complaints and communicate with citizens.[15] In the second action plan, Elgeyo Marakwet has committed to further advance transparency and access to information through its commitment activities.

Elgeyo Marakwet joined the OGP as one of 15 pioneer local governments in 2016, meeting OGP's eligibility criteria. The government, through its first action plan, sought to strengthen and consolidate adherence to these criteria.[16] As identified in the 2017 IRM report,[17] a key success of the 2017 action plan was the enhanced collaboration between government and CSOs. Other successes include peer learning through the Africa Local Convention[18] that was held in Elgeyo Marakwet, continued commitment from political leadership in advancing open government initiatives, improvements in disclosure of information, and more opportunities for nongovernmental actors and the public to engage in governance processes. Elgeyo Marakwet has also progressed to mentor other county governments in Kenya, including Makueni County.

It is important to note that OGP revised its eligibility criteria in 2017, to include core eligibility. This is determined by evaluations of fiscal transparency, access to information, asset disclosure, and citizen engagement, along with a values assessment, which considers adherence to democratic governance norms and values set forth in the Open Government Declaration.[19] Elgeyo Marakwet has continued to demonstrate commitment to open government and adherence to these criteria through enhanced civic engagement, open contracting, citizen feedback mechanisms, and participatory budgeting, as evidenced in the 2017 IRM report, and the prioritization of policy concerns in Local Action Plan (LAP II).

The primary concern of Elgeyo Marakwet is the advancement of open governance within the key sectors under its jurisdiction. These include health services, agriculture, county transport, trade development, county planning and development, pre-primary education, village polytechnics, homecraft centers, specific national policies on natural resources and environmental conservation, county public works, firefighting and disaster management, pollution control, and cultural activities.[20] In each of these sectors, the head of the County Government, H.E. Governor Alex Tolgos, explained that the main concern for the government was creating an enabling environment that allows citizens to proactively and meaningfully participate in governance.[21] He noted that the challenges and priorities raised by citizens, CSOs, and government officials during co-creation were similar: improved civic engagement, access to information, and accountability measures.

The Local Action Plan II addresses the above concerns in three ways; first, the commitments seek to improve citizen involvement in government projects that cut across the sectors, from procurement to project implementation and monitoring; secondly, it specifically reaches out to address challenges experienced by citizens in healthcare service delivery; and lastly, but importantly, it advances citizen engagement in all sectors by enhancing public participation and provision of relevant data to support informed decisions by citizens and stakeholders.

---

[1] *See* the County Government Act (2012), the Public Finance Management Act (2012), the Transition to Devolved Government Act (2012), the Urban Areas and Cities Act (2011), the Anti-corruption and Economic Crimes Act (2003), the Access to Information Act (2016), the Code of Conduct and Ethics for Public Officers (2016), the Public Officer Ethics Act (2003), the Proceeds of Crime and Anti-Money Laundering Act (2014), the Leadership and Integrity Act (2012), the Public Finance Management Act (2012), the Public Audit Act (2015), the Fair Administration Action Act (2015), among others. Available at: http://kenyalaw.org/.

[2] Republic of Kenya, *Constitution of Kenya* (Kenya Law Reform Commission, 2020), http://www.klrc.go.ke/index.php/constitution-of-kenya.

[3] https://www.knchr.org/

[4] Uasin Gishu County Government, "County Conducts Public Participation on the Proposed Finance Bill" (24 Aug. 2018), https://www.uasingishu.go.ke/county-conducts-public-participation-on-the-proposed-finance-bill/; County Assembly of Elgeyo Marakwet, "Public Participation on the Elgeyo/Marakwet County Youth, Women and Persons with Disabilities Fund Bill 2018" (21 Sept. 2018), https://www.facebook.com/emcountyassembly/photos/a.1516023585127105/1988008097928649/?type=3; Vihiga County Government: Department of Finance and Economic Planning, "Subject; Public Participation Notice" (2019), http://www.vihiga.go.ke/documents/Advertisement%20for%20Public%20Participation.pdf.

[5] http://www.eacc.go.ke/about-us/.

[6] https://www.ombudsman.go.ke/.

[7] Anne Buluma, "An overview of citizen oversight in Kenya" in *Adili* 153 (Transparency International Kenya, Jun./Jul. 2015), https://tikenya.org/wp-content/uploads/2017/06/adili-issue-153-civilian-oversight-in-kenya.pdf.

[8] Republic of Kenya, *Elgeyo/Marakwet County Gazette Supplement* 11 no. 5 (Nairobi: The Government Printer, 30 Jun. 2014), http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ElgeyoMarakwetPublicParticipationAct2014.pdf.

[9] Republic of Kenya, *Elgeyo/Marakwet County Gazette Supplement* 1 no. 1 (Nairobi: The Government Printer, 8 Jan. 2015), http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ElgeyoMarakwetCountyEquitableDevelopmentAct2015.pdf.

[10] Kipkorir Biegon and Jostine Wambui, *Are Kenya Counties Making Budget Documents Available to the Public? A Review of County Websites* (International Budget Partnership Kenya, Mar. 2019), https://www.internationalbudget.org/wp-content/uploads/kenya-county-budget-transparency-review-march-2019.pdf.

[11] Elgeyo Marakwet County Government, *County ICT Roadmap 2015 – 2020* (Oct. 2015), http://icta.go.ke/pdf/5.pdf.

[12] *Id.* at 23.

[13] Kilimo Ruto (County Director of Public Participation), interview by IRM Researcher, 7 Mar. 2019.

[14] https://www.elgeyomarakwet.go.ke/index.php/downloads.

[15] For details on achievements from the first action plan, *see* Ruth Kendagor, *Independent Reporting Mechanism (IRM): Elgeyo Marakwet Final Report 2017* (OGP, 17 Jan. 2019), https://www.opengovpartnership.org/documents/elgeyo-marakwet-irm-report-2017.

[16] John Maritim (Government Point of Contact, and Director, Economic Planning and Budgeting), interview by IRM researcher, 22 Mar. 2019.

[17] Kendagor, *Independent Reporting Mechanism (IRM): Elgeyo Marakwet Final Report 2017*.

[18] Vincent Bartoo, "Kenya's Elgeyo Marakwet County Hosts Africa OGP Convention" (OGP, 29 May 2018), https://www.opengovpartnership.org/stories/kenyas-elgeyo-marakwet-county-hosts-africa-ogp-convention.

[19] OGP, *Open Government Declaration* (Sept. 2011), https://www.opengovpartnership.org/open-government-declaration.

[20] Republic of Kenya, "Fourth Schedule. Distribution of functions between National and the county governments" in *The Constitution of Kenya* (Kenya Law Reform Commission, Sept. 2010), http://www.klrc.go.ke/index.php/constitution-of-kenya/167-schedules-schedules/fourth-schedule-distribution-of-functions-between-national-and-the-county-governments.

[21] H.E. Eng. Alex Tolgos (Governor, Elgeyo Marakwet County Government), interview by IRM Researcher, 25 Feb. 2019.

III. Leadership and Multistakeholder Process

3.1 Leadership
This subsection describes the OGP leadership and institutional context for OGP in Elgeyo Marakwet.

The head of government (the Governor, H. E. Eng. Alex Tolgos) leads OGP activities in Elgeyo Marakwet. The Governor chairs the Multistakeholder Forum (MSF), which is the main body tasked with overseeing the co-creation and implementation of commitments (see Section 3.2). While the Forum can make some decisions regarding OGP activities, all major decisions rest within the mandate of the Governor. The Governor is supported by three agencies: (1) the Deputy Governor, whose role is to deputize and assist the Governor with all matters concerning the local government, including OGP functions, (2) the County Secretary which is responsible for administrative implementation and coordination of activities, and (3) the Point of Contact and their staff. For ease of coordination, these three agencies are all members of the Multistakeholder Forum.

As the OGP lead in the county, the Governor was involved in all major OGP activities. The governor participated in the co-creation process, chaired most of the MSF meetings, and led the launch of the action plan.

OGP is not mandated through any legally binding document in Elgeyo Marakwet. Although the county government signed the *Open Government Declaration*,[22] the declaration is voluntary.

During the financial year 2018/2019, the county government did not allocate a budget for OGP activities. According to the government Point of Contact, Mr. Maritim,[23] co-creation for the Local Action Plan II (LAP II) happened after the budget proposals had been submitted. However, he is hopeful that there will be an OGP allocation in the 2019/2020 budget.[24] In terms of staffing, the daily coordination of OGP activities was primarily done by the department of Finance and Economic Planning. The Director Economic Planning and Budgeting, who is the government Point of Contact, has 20 staff who support coordination and secretariat services for OGP activities in the county.

The MSF conducted intergovernmental coordination for LAP II. MSF membership included representatives from the legislative arm of government (County Assembly) while national government representatives were engaged during various consultation forums. The leadership structure for OGP remained the same from the previous action plan. However, adjustments were made in the membership and coordination of the MSF as explained in Section 3.2 below.

3.2 Multistakeholder process throughout action plan development
In 2017, OGP adopted the OGP Participation and Co-Creation Standards intended to support participation, and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

OGP's Articles of Governance also establish participation and co-creation requirements a country or entity must meet in their action plan development and implementation to act according to OGP process. Elgeyo Marakwet did not act contrary to OGP process.[25] In order for a local government to avoid acting contrary to OGP process and meet the level of "inform" at the development of action plan, it has to meet the following criteria: there needs to be a forum in place, the forum includes civil society representation, and the government provides "reasoned response" to proposals submitted and to participating stakeholder, that is, the government documents how it provided the feedback during the co-creation process, including a summary of major categories and/or themes proposed inclusion, amendment or rejection. In the case of Elgeyo Marakwet, there was a forum which included civil society members, and the government provided reasoned responses as discussed below.

Please see Annex I for an overview of Elgeyo Marakwet's performance implementing the Co-Creation and Participation Standards throughout the action plan development.

Table 3.2: Level of Public Influence

The IRM has adapted the International Association for Public Participation (IAP2) "Spectrum of Participation" to apply to OGP.[26] This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for "collaborate" at the least.

Level of public influence		During development of action plan
Empower	The government handed decision-making power to members of the public.	
Collaborate	There was iterative dialogue AND the public helped set the agenda.	✓
Involve	The government gave feedback on how public inputs were considered.	
Consult	The public could give inputs.	
Inform	The government provided the public with information on the action plan.	
No Consultation	No consultation	

Multistakeholder forum

Elgeyo Marakwet established a Multistakeholder Forum (MSF) to coordinate its open government initiatives, including the development and implementation of the Local Action Plan II (LAP II). The forum was established through a public mandate, with the head of government issuing appointment letters for the members. However, it did not have a legally binding mandate. During the action plan design, the main role of the MSF was to oversee the co-creation process, which involved advisory and decision-making responsibilities.

The MSF had 17 members: 11 members were official, and 6 were incorporated as ex-officio members.[27] Of the official members, five were from the government,[28] five were nonstate actors,[29] and the Governor was the lead and chairperson. The Governor directly appointed the five government officials, basing their selection on institutional memory of OGP activities, decision-making authority, the level of commitment by the individual officials, and political unity between the executive and legislative arms of the government.[30] Selection of the nonstate representatives was consultatively done between the government's POC, the Centre for Innovations in Open Governance (CIOG),[31] and the Network for Civil Societies.[32] The nonstate actors were classified into four categories, from which representatives were nominated and appointed: two representatives were chosen from the CSO category; one was chosen from the development partner category; one was from the business community; and one was from the special interest group.[33] These categories nominated their own representatives, who were then formally appointed by the Governor. During the pre-publication review, Maritim and Kiprono of CIOG explained that the government worked with CSOs to map out nonstate actors (both CSOs and development partners), after which the respective institutions nominated their representatives. The CSO network recommended that for future action plans, CSOs and development partners should lead the selection process for CSOs, independently identifying and nominating their representatives. Therefore, the IRM recommends a broader use of CSOs as nonstate actors and applying a co-creation standard that "[n]on-governmental members of the multi-stakeholder forum are selected through a fair and transparent process. The forum's rules should allow non-governmental members to lead their own selection process."[34]

While the MSF included a wide range of government officials, CSOs, and development partners, it did not have female representation, and thus lacked gender balance. Maritim explained that MSF membership was based on office-bearers, all of whom were men. During pre-publication review, he noted that the government could reorganize its members to ensure female representation.

The MSF was not well-structured during development of the first local action plan. During the second cycle, CIOG and the government POC developed guidelines for MSF membership and operations. At the first MSF meeting, members adjusted and adopted the guidelines. These guidelines provided a framework for membership and rules of member participation, including roles and responsibilities.

All MSF meetings were held in Iten, the county capital, which is central for the geographically diverse participants. During the plan development, the forum met in person once or twice a week. Although the forum did not publish minutes, decisions, or feedback on their activities, there were several meetings with a wide array of civil society groups to provide MSF feedback and decisions regarding CSO submissions. The meetings allowed stakeholders outside the forum to observe and inform decisions on the action plan themes and commitments.[35] Representatives from the World Bank, SNV, Red-Cross, AMPATH, and the County Assembly attended the open forums and contributed technical expertise and shared perspectives.

The MSF was an improvement from the steering committee of the first action plan. The government included greater diversity in the MSF membership. The MSF guidelines defined how the different actors were to be engaged in the plan's development, in line with IRM recommendations from the first action plan.[36] Additionally, as compared to the first plan where there was limited engagement with the County Assembly, the MSF in LAP II supported Assembly engagement, as expressed by leaders during the plan's launch.

Participation and engagement throughout action plan development

Elgeyo Marakwet provided balanced participation between government and nongovernment actors in designing LAP II. Consultations began during the Africa Local Convention in May 2018, and culminated in the public launch of the co-creation process on 2 May 2018. The Center for Innovations in Open Governance (CIOG) won an award from the OGP trust fund to support Elgeyo Marakwet's co-creation process.[37] With this award, CIOG played a key role in coordinating participation and engagement during the action plan development.

Before consultations officially started, CIOG developed a roadmap for the co-creation process. The roadmap provided the background description of Elgeyo's involvement with OGP and the need for the LAP II. It also detailed stakeholder engagement: activities, timelines, and expected output from co-creation activities.[38] This roadmap was discussed with the government POC, and approved in a meeting on 8 June 2018 by the interim MSF (the steering committee from the previous action plan, who initiated and coordinated OGP efforts before the current MSF was formally established).

The government then published an online public notice,[39] which detailed opportunities for participation, how to submit ideas for commitments, templates for submission of ideas, and timelines and criteria for assessing and selecting ideas for inclusion in the commitments.

Participation opportunities for plan development were both online and offline; online opportunities were in the form of templates and guidance provided through the public notice, and contact details provided for submission, feedback, and queries. Offline opportunities included a meeting held in each of the four sub-counties in Elgeyo Marakwet. In these meetings, held between 5 and 6 July 2018, CIOG invited public representatives[40] to discuss ideas for consideration in the action plan commitments.

The government also conducted listening tours between 31 July and 2 August 2018 for two purposes: firstly, for government officials to receive feedback from the community meetings; and secondly, for government officials to give suggestions on commitment development. After these sessions, a county-wide meeting brought together representatives from the government, citizens,

CSOs, and other nonstate actors, on 17 July 2018, to review citizen and government inputs, and hear feedback from the MSF.[41]

Notice for participation in the plan's co-creation was published two weeks before participation started (i.e., before the sub-county meetings); advance notice was also given for the government and joint group meetings. Consequent meetings between the MSF and stakeholders were often communicated in prior sessions. Several citizen groups, government officials, and other nonstate actors continued to participate in the different forums that were organized by both the government and CIOG, such as thematic group discussions and the MSF. According to meeting attendees, the government discussed its priorities and the political feasibility of adopting CSO suggestions with other stakeholders, including the MSF.[42]

Participation in developing the action plan by public institutions fell in three categories: national government participation, county government participation by the executive, and participation by the County Assembly. Ten divisions from the county executive participated through their departmental officials. The speaker and elected leaders represented the County Assembly. The Department of Children Services was involved from the national government. Officials who participated in the sub-county meetings served as observers, and those who attended the government listening tours proposed commitments. Further, officials who attended consequent county meetings were involved in prioritizing and designing the final commitments and action plans.[43]

After consultations, the government shared progress on the development of the action plan (including minutes, reports, notes of meetings, and draft commitments) through MSF meetings, county-level meetings, and the thematic group meetings. Although both government and nongovernment actors (including CSOs and citizens) were present at these meetings, the government did not publish this information online. However, the government POC reported that feedback on draft commitments and reasoned responses were shared through the meetings and communication between the thematic groups and the MSF, up until the final selection of the commitments and activities. The final approved action plan was published on the county website[44] and on the OGP webpage.[45]

The priority areas that made the five final commitments were largely grounded on issues raised by citizens and government officials during the listening tours. These issues were fine-tuned by the MSF and the thematic groups into specific commitments and activities in the action plan. However, some concerns discussed in the community and government tours were not considered in the action plan. Government and CSOs held a joint meeting to consider and classify concerns into specific themes; those that were not considered as commitment-specific concerns were forwarded to the government for follow-up action.

According to Timothy Kiprono,[46] and Gideon Mutai[47] (CSO representatives), issues that were left out were considered by the government to be administrative matters that could be addressed outside of the action plan. The Government POC, John Maritim, and the head of government, confirmed that all matters raised by citizens and CSOs, but not specific or ambitious enough for commitments, would be administratively handled outside of the action plan.[48] Mutai from the Network for CSOs further affirmed that the government's commitment was communicated in the joint stakeholders meeting.

In general, the IRM researcher believes that the co-creation process for Elgeyo Marakwet was highly structured, well organized, and the government provided reasoned responses. The OGP trust fund awarded to CIOG majorly contributed to this process. Through this fund, Elgeyo Marakwet could incorporate wider engagement in the MSF membership, and broaden consultations as compared to the previous plan's co-creation cycle. This is reflected in the improved documentation of the process, and notable improvements in the quality of the action plan, as illustrated by the specificity and potential impact of the commitments (see Section 4). Further, the similarity of concerns, despite the diverse engagement and participation, reflect the commonality of challenges within Elgeyo Marakwet. The final commitments match the policy areas prioritized by both government and civil society.

Co-creation and participation recommendations throughout development

Elgeyo Marakwet achieved strong performance in MSF conduct, communication, and outreach during development. The structured engagement of stakeholders, and the feedback and validation processes following consultations, were particularly commendable.

The government engaged a wide group of stakeholders ranging from special interest groups in the community to development partners, such as World Vision Kenya. The government also obtained and structured citizen feedback on challenges in accessing government services, and government and CSO perspectives on how to address these challenges through action plan commitments.

The IRM researcher suggests the following actions to improve future performance:
- Improve MSF composition to include gender balance and other actors, such as academics.
- Broaden government engagement beyond the executive branch and top leadership. Elgeyo could use reflections from other branches who collaborate on open government reforms.
- Design and implement open government initiatives in an open space. Commitments and reforms require broader participation by all to create a local ecosystem for open governance that goes beyond the executive. Value engagement by other branches. Continue legislative participation in the MSF meetings and open government initiatives. For example, commitment three would benefit from enhanced collaboration between the executive and legislative.
- Improve MSF transparency by publishing online and on notice boards the selection process for MSF members, as well as MSF decisions, reasoning, and responses to major categories of comments and input.
- Improve transparency and accountability by developing an OGP webpage. Through this portal, the government could proactively publish information on the OGP process, share documents for deliberation, and receive and respond to citizen feedback.
- Adopt participation standards during implementation. Collaboration between CSOs and the government should be ongoing throughout the action plan cycle. CSOs should be actively involved in monitoring the plan's implementation and be part of an ongoing reflection for improving future plans.

---

[22] OGP, *Open Government Declaration* (Sept. 2011), https://www.opengovpartnership.org/open-government-declaration.
[23] John Maritim (Director, Economic Planning and Budgeting, and Government POC), interview by IRM researcher, 14 Feb. 2019.
[24] *Id*.
[25] Acting Contrary to Process: Country did not meet (1) "involve" during the development or "inform" during implementation of the NAP; and (2) government fails to collect, publish and document a repository on the national OGP website/webpage in line with IRM guidance.
[26] IAP2 International Federation, "IAP2 Spectrum of Public Participation" (2018), https://cdn.ymaws.com/www.iap2.org/resource/resmgr/pillars/Spectrum_8.5x11_Print.pdf.
[27] The six ex-officio members included the specific commitment leaders for each of the five commitments and the Chief of Staff (who also represented the office of the Governor).
[28] The five government officials were: John Maritim (POC), Samuel Chumba (Director, Administration), Sengech (who represented the County Secretary), H.E. Hon. Sabulei (Speaker of the County Assembly), and Vincent Bartoo (Director, Communications).
[29] The five nonstate actors were: Timothy Kiprono (Center for Innovations in Open Governance), Ken Kimaiyo (Elgeyo Marakwet Network for Civil Society Organizations and also representing the Youth Bunge/Youth Parliament), Kimutai Chemitei (Iten Business Community), Moses Kiptugen (World Vision Kenya, representing development partners), and Joseph Rono (from People Living with Disabilities, and representing the special interest groups).
[30] Maritim, interview.
[31] CIOG spearheaded the co-creation process, and won the OGP trust fund award to support Elgeyo's co-creation process.
[32] Kenneth Kimaiyo (Coordinator, Elgeyo Marakwet Network for CSOs), interview by IRM researcher, 8 Mar. 2019.
[33] Special interest groups include women, youth, and people living with disabilities.
[34] Reference can be made to the OGP co-creation toolkit with country examples, available at: https://www.opengovpartnership.org/wp-content/uploads/2019/06/OGP-Participation-Co-Creation-Toolkit.pdf.
[35] Timothy Kiprono (Executive Director, CIOG), interview by IRM Researcher,14 Feb. 2019.
[36] Ruth Kendagor, *Independent Reporting Mechanism (IRM): Elgeyo Marakwet Final Report 2017* (OGP, 2017), https://www.opengovpartnership.org/wp-content/uploads/2019/01/Elgeyo-Marakwet_Final-Report_2017.pdf.

[37] For more information about the trust fund and the awards, please visit:
https://www.opengovpartnership.org/stories/announcing-2018-co-creation-awards.
[38] A copy of the roadmap can be found here:
https://drive.google.com/drive/folders/1dDxlcpfS9OiZi3rMQcshO1pJwE0yf8Ub.
[39] The public notice can be found here: https://drive.google.com/drive/folders/1dDxlcpfS9OiZi3rMQcshO1pJwE0yf8Ub.
While the government was updating its website, the notice could not be traced from the website, but remains available on
the repository.
[40] In selecting participants for the community tours, CIOG organized a meeting with registered citizen groups, ranging from
youth and self-help groups to people living with disabilities, to identify and nominate participants for the tour. These
participants were then invited, via phone calls, to attend the meetings held between 5 and 6 July 2018.
[41] Records of participants, reports, and proceedings of the consultations are available here
https://drive.google.com/drive/folders/1yQGzQvEyS50jBRa8DEk0BjmPCaPFQE0G
[42] Kimaiyo, interview; Timothy Kiprono (Executive Director, Center for Innovations in Open Governance), interview by IRM
Researcher, 25 Feb. 2019.
[43] A detailed list of participants can be found here: https://docs.google.com/spreadsheets/d/1auOqove-
vkYdbIHxfwKE6lwXA7o584BYi02HhhFN_yA/edit#gid=1929492901.
[44] https://www.elgeyomarakwet.go.ke/index.php/component/jdownloads/send/4-publications/1944-elgeyo-marakwet-
county-s-ogp-lap-ii-final.
[45] Government of Elgeyo Marakwet County, *Open Government Partnership Local Action Plan II (2018-2020)* (7 Sept. 2018),
https://www.opengovpartnership.org/documents/elgeyo-marakwet-county-action-plan-2018-2020.
[46] Kiprono, interview.
[47] Gideon Mutai (CSO representative from Keiyo South), interview by IRM researcher, 8 Mar. 2019.
[48] H. E. Alex Tolgos (Governor, Elgeyo Marakwet County), interview by IRM researcher, 25 Feb. 2019.

IV. Commitments

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's/entity's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.[49] The indicators and method used in the IRM research can be found in the IRM Procedures Manual.[50] A summary of key indicators the IRM assesses is below:

- **Verifiability:**
  - Not specific enough to verify: As written in the commitment, do the objectives stated and actions proposed lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment process?
  - Specific enough to verify: As written in the commitment, are the objectives stated and actions proposed sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment process?
- **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance are:
  - Access to Information: Will the government disclose more information or improve the quality of the information disclosed to the public?
  - Civic Participation: Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
  - Public Accountability: Will the government create or improve public facing opportunities to hold officials answerable for their actions?
  - Technology & Innovation for Transparency and Accountability: Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?
- **Potential impact:** This variable assesses the *potential impact* of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
  - Identify the social, economic, political, or environmental problem;
  - Establish the status quo at the outset of the action plan; and
  - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report.*
- **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report.*

What makes a potentially starred commitment?

A potentially starred commitment has more potential to be ambitious and to be implemented. A good commitment is one that clearly describes the:

1. **Problem:** What is the economic, social, political, or environmental problem? Rather than describing an administrative issue or tool (e.g., 'misallocation of welfare funds' is more helpful than 'lacking a website').
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan (e.g., "26% of judicial corruption complaints are not processed currently.")?
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation (e.g., "doubling response rates to information requests" is a stronger goal than "publishing a protocol for response.")?

Starred commitments

One measure, the "starred commitment" (✪), deserves further explanation due to its particular interest to readers and usefulness for encouraging a race to the top among OGP-participating countries/entities. Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

- Potential star: the commitment's design should be **verifiable**, **relevant** to OGP values, and have **transformative** potential impact.
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of **Substantial** or **Complete** implementation.

This variable is assessed at the end of the action plan cycle, in the *Implementation IRM report*.

General Overview of the Commitments

Elgeyo Marakwet designed its Local Action Plan II to advance targets in the Sustainable Development Goals, as well as national policies. The five commitments included in the action plan focus on three thematic areas: transparency and accountability; citizen engagement, information, and feedback; and public service delivery. These themes specifically address SDGs 3, 4, 5, 8, 10, 16, and 17, and reflect national policies on public procurement, public participation, and empowerment of Special Interest Groups. Commitment 4 is a crosscutting theme that informs decision-making by producing datasets and a data-management framework.

---

[49] OGP, "Open Government Partnership: Articles of Governance" (Jun. 2012, updated Mar. 2014 and Apr. 2015), https://www.opengovpartnership.org/sites/default/files/attachments/OGP_Articles-Gov_Apr-21-2015.pdf.
[50] OGP, *IRM Procedures Manual* (16 Sept. 2017), https://www.opengovpartnership.org/documents/irm-procedures-manual.

1. Promote transparent and accountable public procurement processes and facilitate public oversight on projects management

Language of the commitment as it appears in the action plan: "Promote transparent and accountable public procurement processes and facilitate public oversight on projects management"

Main objective: To institutionalize and standardize practices in public procurement that facilitate fair access to opportunities

Milestones:

- Develop and disseminate simplified procurement manual
- Revise and disseminate existing standard tender evaluation criteria requirements
- Publish tender outcomes and display to the public for 14 days
- Develop a Procurement Opportunities Policy
- Simplify and disseminate technical documents
- Develop a Projects Management Policy
- Develop a Standard Operating Procedure Manual
- Mainstream procedure manual, timelines and indicators into staff performance measurements and appraisal targets
- Complete the County Project Implementation Monitoring and Evaluation System
- Publish project implementation and assessment reports
- Incorporate guidelines on net-savings management into the Project Management Policy

Start Date: September 1, 2018   **End Date:** August 31, 2020

	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
		✓	✓	✓					✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Editorial Note: The text above includes sections of the commitment text to fit this report. The complete text with specific responsible actors and completion dates per milestone can be found in the Local Action Plan II.[51]

Context and Objectives

The main objective of the commitment is to institutionalize and standardize public procurement practices that facilitate fair access to opportunities, and thus enhance public involvement in government procurement. Toward this objective, the commitment broadly seeks to promote transparency, fairness, and accountability in government procurement.

Citizens can do business with the government, but lack sufficient knowledge on the process for accessing these opportunities.[52] Many special interest groups (SIGs) were unaware of the process and documentation required to access reserved tenders under the Access to Government Procurement Opportunities (AGPO) program;[53] even when awarded, some lacked the capability to implement the projects. As a result, the government awarded tenders to the "usual investors" who

met the minimum requirements, leaving out the majority of SIGs. This resulted in a rise of "opportunistic contractors" who would bid for tenders using the SIGs' documents. Such contractors would take the majority of the payment, thus limiting the intended benefit for SIGs. In a study titled "#jipeshuguli", the Institute of Social Accountability (TISA) observed that a majority of youth respondents were unaware of AGPO and did not possess the AGPO certificates. This study also identified corruption, delayed payments, and market fluctuations as challenges in the procurement process.[54] Maiyo noted that inadequate funding for site visits by government officers often hindered project assessments.[55]

The Iten Business Community representative, Kimutai Chemitei,[56] observed several persisting challenges that called for this commitment. Firstly, the tender evaluation process had loopholes for unscrupulous tenders. He explained that a bidder required an AGPO certificate and CR12[57] form to qualify for tenders reserved for youth. However, these documents did not require the person to update their age, hence allowing older people to compete unfairly for the youth tenders. He also noted that, over the years, the business community had delays in processing payments for work, and the Project Management Committees (PMCs) lacked adequate capacity to perform their roles.[58]

This commitment will address these challenges by expanding spaces for CSOs, citizens, and contractors to give feedback on procurement processes; simplifying and publishing tender documents; enhancing appropriate capacities for all listed procurement entities; strengthening citizen involvement in monitoring project implementation; and disclosing net savings on projects.

The commitment is relevant to the OGP values of access to information and civic participation. The commitment will primarily address procurement problems by enhancing citizen access to information; enlarging participation opportunities for citizens, CSOs, and contractors; and performing oversight roles. Developing, simplifying, and publishing tender documents enhances citizen access to information by making information easier to access and understand.

Concurrently, the provision of a 14-day public commentary period, registration of SIGs for AGPO tenders at the grassroot level, and institutionalization of PMCs, will advance citizen participation in government procurement and decision-making. Although the commitment text suggests a relevance to accountability, the IRM researcher could not verify this. The commitment does not explicitly explain how citizens can hold officials answerable for their actions; the commentary period allows citizen engagement and feedback, but does not provide a clear grievance redress mechanism to address this feedback.

However, the overall commitment language is specific enough to be verifiable. The activities, such as developing manuals and policies, publishing reports, and providing a 14-day commentary period, are clearly detailed and the deliverables are measurable. The action plan states that the "Procurement Opportunities Policy will provide (1) guidelines on access to and utilization of opportunities for AGPO and local entrepreneurs (20%) and (2) provide mechanisms to reduce exploitation of youth, women and PWDs demographics by unscrupulous contractors." However, while the commitment promotes transparent public procurement through public engagement, the text does not explain how improved access to information and civic participation improve accountability measures. Although Milestone 9 is measurable and verifiable, the commitment does not explain how the web-based system and the projects' mapping mobile tool will enhance transparency, accountability, or public oversight of public projects. Similarly, the commitment does not describe how the project management committee (Milestone 6) will enhance project management and accountability.

The IRM researcher considers the commitment to have moderate potential impact. Although the commitment introduces a number of activities that demonstrate major steps forward in opening up public procurement, it lacks a few key aspects, including a detailed responsive grievance mechanism, to be considered transformative.

Next steps
Public procurement lies at the heart of public finance management. This is evident not only by the numerous frameworks developed by the national government (such as procurement laws, manuals,

circulars, and authorities),[59] but also by the inclusion of related commitments in the action plans for Elgeyo Marakwet and Kenya at the national level.

This commitment could be relevant to public accountability if it incorporated activities that heightened government answerability. Going forward, the government could address accountability by providing details on how the PMCs enable citizens to audit government performance in project implementation, or include redress mechanisms for citizen feedback. During the pre-publication review, CSOs also recommended that the government create room for CSOs to meet and train the PMCs on quality services, conducting audits, and possible redress mechanisms.

In future action plans, the government and stakeholders could link open procurement with project management in order to provide a holistic approach to the project cycle.

Finally, transparent procurement practices are essential during emergency situations. This commitment lays the groundwork to ensure an open response to the COVID 19 pandemic. The Open Contracting Partnership recommends the following measures:
1. Make emergency procedures public and open.
2. Set clear goals and priorities and consolidating emergency committees for quick decision-making.
3. Use open procurement data to analyze and share information to predict and manage critical supply chains.
4. Build innovative partnerships with business and civil society.
5. Trust and support civil society to play an important role in monitoring efficient spending and delivery of goods and services.[60]

[51] Government of Elgeyo Marakwet County, *Open Government Partnership Local Action Plan II (2018-2020)* (7 Sept. 2018), https://www.opengovpartnership.org/documents/elgeyo-marakwet-county-action-plan-2018-2020.

[52] Selina Kipsang (Ag. Director Procurement, and Commitment 1 lead person), interview by IRM researcher, 7 Mar. 2019; Peter Maiyo (Assistant Director of Procurement Elgeyo Marakwet County), interview by IRM researcher, 7 Mar. 2019.

[53] AGPO is a presidential directive that at least 30% of all government tenders are undertaken by public entities. Whether national or county, government tenders should be reserved and awarded to special interest groups (i.e., women, youth, and people living with disabilities).

[54] The Institute for Social Accountability, *Jipeshughuli Main Report* (2017), https://www.tisa.or.ke/images/uploads/Jipeshughuli_Main_Report.pdf.

[55] Peter Maiyo (Assistant Director of Procurement Elgeyo Marakwet County), interview by IRM researcher, 7 Mar. 2019

[56] Kimutai Chemieti (Representative from Iten Business Community), interview by IRM researcher, 22 Mar. 2019.

[57] This is a letter issued by the registrar of companies showing the directors of a company. The purpose of the CR12 is to declare beneficial ownership.

[58] Chemieti, interview.

[59] RoGGKENYA's toolbox provides a list of all rules and bodies governing public procurement in Kenya. Ulli Schauen, "Public Procurement Rules and Bodies" (RoGGKENYA.org, 28 Aug. 2016), https://roggkenya.org/areas-for-media-coverage-in-good-governance-and-corruption-in-kenya/public-procurement-overview/public-procurement-rules-and-bodies/.

[60] OGP, "A Guide to Open Government and the Coronavirus: Public Procurement" (28 Apr. 2020), https://www.opengovpartnership.org/documents/a-guide-to-open-government-and-the-coronavirus-public-procurement/; for full recommendations, *see* Gavin Hayman, "Emergency procurement for COVID-19: Buying fast, open and smart" (Open Contracting Partnership, 25 Mar. 2020), https://www.open-contracting.org/2020/03/25/emergency-procurement-for-covid-19-buying-fast-open-and-smart/. Some countries like Chile, Paraguay, Ukraine and cities such as Buenos Aires are implementing good practices on emergency procurement (Viktor Nestulia, "Emergency procurement for COVID-19: Buying fast, smart, and open" (Open Contracting Partnership, accessed Sept. 2020), https://www.open-contracting.org/what-is-open-contracting/covid19/#countries).

2. Widen civic engagement by expanding opportunities for participation and, enhance access to information, feedback mechanisms and complaints management for special interest groups

Language of the commitment as it appears in the action plan: "Widen civic engagement by expanding opportunities for participation and, enhance access to information, feedback mechanisms and complaints management for special interest groups"

Main Objective: To ease the ability of youth, women and persons living with disabilities to play a role in governance.

Milestones:

- Assess budget responsive to Special Interest Groups
- Assess and expand existing spaces for special interest groups
- Develop policy to establish multi-stakeholder development forum, sector working groups, and thematic development committees
- Develop civic education manuals, tools and guidelines
- Operationalize EMC radio station
- Institutionalize "ward open day forum"
- Amend County Public Participation Act 2014
- Finalize preparation and implementation of County Information, Communication and Feedback Policy
- Mainstream complaints reporting mechanism into county staff performance contracts
- Broadcast live County Assembly proceedings through radio station and other mediums

Start Date: September 1, 2018   **End Date:** August 31, 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
1. Overall		✓	✓	✓					✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Editorial Note: The text above includes sections of the commitment text to fit this report. The complete text with specific responsible actors and completion dates per milestone can be found in the Local Action Plan II.

Context and Objectives

The objective of this commitment is to ease the ability of youth, women, and persons living with disabilities to play a role in governance, by expanding opportunities for participation and enhancing access to information, feedback mechanisms, and complaints-management groups.

Section 97 of the constitution of Kenya (2010)[61] addresses special interest groups (SIGs) and includes women, youth, and persons with disabilities. Section 8 of the National Gender and Equality Commission Act (2011)[62] further refers to minorities and marginalized people as part of SIGs.

In LAP II, the county government identifies the unavailability of secure safe spaces for special interest groups to express their voices and participate in local governance; this limits achieving the robust public participation anticipated by Commitment 1 in the 2017 action plan. In the current plan, the government explains that SIG voices are often curtailed inadvertently by the nature, structure, and design of participatory processes. Consequently, special interest groups become marginalized from decision-making.

According to Kilimo Ruto, the County Director of Public Participation,[63] this commitment arose as a result of the 2017 action plan commitment on public participation. After implementing the public participation guidelines developed consultatively by both the government and CSOs in LAP I,[64] the government realized that the participation by SIGs was still limited; although their attendance at public forums had improved, the SIGs still had no voice.[65] Director Ruto and Timothy Kiprono (CIOG)[66] both cited an example of children, who were relegated as a "silent group;" public participation forums made decisions about children issues without specifically consulting them.

Samuel Kipchumba (Director, Administration)[67] explained that the commitment would not only advance inclusivity in public participation, as designed in the first action plan, but also provide the government a framework for Section 25 of the Elgeyo Marakwet Public Participation Act 2014.[68] This law requires the county government to adopt affirmative action programs to ensure that minorities and marginalized groups participate in all matters that affect them and are represented in governance.

This commitment is relevant to the OGP values of civic participation and access to information. Milestones 13, 14, 16, 17, and 18 will expand spaces for citizens to participate and air their voices, while Milestones 16 and 21 will enlarge channels through which citizens can access and receive government information. Milestone 19 is relevant to access to information and is a continuation of Commitment 4 from LAP I, which sought to establish channels for real-time citizen engagement and government response. This prior commitment developed an Information, Technology and Communication (ICT) Policy to provide guidelines on use of technology for communication.

Based on the commitment text, the IRM researcher considers that the commitment language is generally specific enough to be verifiable. However, while Milestone 13 has objectively verifiable activities, it lacks clearly measurable deliverables for achieving the commitment's objective. Overall, the researcher considers that the commitment has a moderate potential impact. Milestones 12, 17, and 20 have a minor positive potential impact, while Milestones 13, 14, 15, 16, 19, and 21 have a moderate potential impact. Milestone 18 has a transformative potential impact. However, the researcher found that when combined, these milestones would have a cumulative moderate potential impact.

Milestones 12, 17, and 20 could have an incremental positive impact. Milestone 12, which aims to assess the responsiveness of county budgets to SIGs, will provide baseline statistics to inform recommendations and future actions, including supporting informed budgeting and planning for the SIGs. Milestone 17 is an incremental step, and limited in scope. Prior to this commitment, public participation forums were provided by the government during the annual development plan preparations and by the Assembly during budget hearings. In these forums, participation is open to all, including SIGs. The ward open day forums, as discussed in this commitment, will be an open day for all citizens, including SIGs, to discuss a wide range of concerns. Although this forum aims to bring together leadership in one meeting (i.e., representatives from the Assembly and executive, and the local leadership), such forums existed previously. Beyond a few new features, it is not a major development. It does not explain how this platform will provide additional solutions for SIGs, different from general public participation forums already in place.

Milestone 20 is a positive step to ensure that the commitment activities are implemented and monitored. However, it is internal-facing to government, and thus cannot be considered to improve accountability.[69]

Milestones 13 and 15 could have potentially major impacts, but are limited in scope. Milestone 13 is generally worded, and does not provide measurable deliverables. This milestone seeks to assess and expand existing spaces for SIG engagement; however, the commitment does not state which specific spaces will be expanded. Milestone 15 seeks to develop tools and guidelines for civic education. The guidelines will streamline civic education and participation in creating staff performance guidelines. However, there are already several civic education tools available,[70] and this commitment does not explain how its manuals, tools, and guidelines will contribute specifically to addressing the challenges faced by SIGs. Joseph Rono,[71] the CSO representative for people living with disabilities (PLWD) noted that civic education would improve SIGs' participation by creating awareness of SIGs' role in governance, and opportunities for participation. On the other hand, Timothy Kiprono of CIOG[72] recommended that government should work closely with CSOs to ensure that the documents developed will not be a replica of existing work, and serve the desired purpose.

Milestones 14, 16, 19, and 21 are major steps in enhancing inclusion of SIGs and improving their ease of participating in governance. In Milestone 14, the government, through the department of public service management and county administration, will develop a policy on establishing forums such as the County Multistakeholder Development Forum, Sector Working Groups (SWGs), and Thematic Development Committees. This policy will consider inclusivity of the various SIGs. Although forums such as the SWGs were established under LAP I, those guidelines did not provide for inclusion of SIGs, and have not been institutionalized as county policy. Joseph Rono (PLWD) noted that institutionalizing SIGs in major decision-making forums, such as those identified in the action plan, would be a great step to ensure representation of SIGs.[73]

Milestones 16 and 21 are also major steps in improving access to information, communication, and feedback between government and citizens. Various channels of communication and public engagement previously existed (such as public meetings) however, operation of the EMC radio provides an "accessible to all" forum, where all citizens can receive information and provide feedback, regardless of distance or disability. The radio station also strategically provides a channel for live broadcasts of county proceedings (Milestone 21), which were previously unavailable for citizens.

Milestone 18 institutes the delegates system to ensure diversity and balanced representation during county public participation forums. While the government, in collaboration with CSOs, developed the delegate system of public participation in LAP I (as part of the public participation guidelines), the guidelines did not provide the criteria, scope, or mode for delegates' selection to ensure diversity and balanced representation. This activity therefore provides for these guidelines to be developed, and institutionalized by amending the Public Participation Act. Milestone 18 is considered to have a transformative impact. According to Kenneth Kimaiyo[74] (Coordinator for the Network for CSOs), amendment of the Public Participation Act will not only provide for the institutionalization of the delegates system, but will give legal mandate for other provisions in the public participation guidelines, such as improved public participation and the prior presentation of documents and information. John Maritim[75] (County Director of Economic Planning) also noted that this activity supports implementation of recommendations identified in the 2017 IRM report.

Next steps
Over the years, the county government of Elgeyo Marakwet has made tremendous efforts to enhance citizen engagement in governance by widening spaces for participation and promoting quality input from citizens that positively influence decision-making. These efforts include development of the County Public Participation Act, development of public participation guidelines from LAP I, inclusion of public participation activities in the Equitable Development Act, and the establishment of a directorate to coordinate public participation activities in the county.

While this commitment improves participation of SIGs in governance, the IRM researcher considers that some sections of the commitment text could be more specific in order to improve verifiability of results. Going forward, in implementing this commitment, the government and stakeholders could make deliberate efforts to design and implement activities that directly solve challenges facing SIGs, and hence achieve transformative results. For example, through Milestone 13, the government could enhance its efforts to improve SIG access to information by mapping out how to disseminate information in ways accessible to people living with disabilities. This would include methods such as braille translations and audio-visuals

[61] Republic of Kenya, *Constitution of Kenya* (Kenya Law Reform Commission, 2020), http://www.klrc.go.ke/index.php/constitution-of-kenya.

[62] Republic of Kenya, "The National Gender and Equality Commission Act" (2011), https://www.ngeckenya.org/Downloads/The_National_Gender_and_Equality_Act_2011.pdf.

[63] Kilimo Ruto (Director, Public Participation), interview by IRM researcher, 7 Mar. 2019.

[64] Detailed information of the consultative process and the guidelines can be found in the IRM review report. Ruth Kendagor, *Independent Reporting Mechanism (IRM): Elgeyo Marakwet Final Report 2017* (OGP, 17 Jan. 2019), https://www.opengovpartnership.org/documents/elgeyo-marakwet-irm-report-2017lgeyo-marakwet-irm-report-2017.

[65] Ruto, interview.

[66] Timothy Kiprono (Executive Director, CIOG), interview by IRM Researcher, 14 Feb. 2019.

[67] Samuel Kipchumba (Director, Administration), interview with IRM researcher, 7 Mar. 2019.

[68] Republic of Kenya, *Elgeyo/Marakwet County Gazette Supplement* 11 no. 5 (Nairobi, 30 Jun. 2014), http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ElgeyoMarakwetPublicParticipationAct2014.pdf.

[69] For a description of Kenya's performance contracting framework *see*: Public Service Commission, *Introduction Handbook for the Public Service* (Jan. 2017), https://www.publicservice.go.ke/images/pdfs/INDUCTION_HANDBOOK_FOR_THE_PUBLIC_SERVICE.pdf and http://unpan1.un.org/intradoc/groups/public/documents/AAPAM/UNPAN025987.pdf

[70] Examples of sources include civic education materials from Uraia Trust, Citizen Handbook and civic education curriculum for the public. These materials can be found here: https://uraia.or.ke/wp-content/uploads/2017/03/citizen-hand-book.pdf https://uraia.or.ke/wp-content/uploads/2017/06/CIVIC-EDUCATION-TRAINERS-CURRICULUM-13-WEEKS-PROGRAME.pdf, http://uraia.or.ke/civic-education-materials/.

[71] Joseph Rono (CSO representative for people living with disabilities), interview by IRM Researcher 8 Mar. 2019.

[72] Kiprono, interview.

[73] Rono, interview.

[74] Kenneth Kimaiyo (Coordinator, Elgeyo Marakwet Network for CSOs), interview by IRM Researcher 8 Mar. 2019.

[75] John Maritim (County Director of Economic Planning and Government POC), interview by IRM Researcher, 22 Mar. 2019.

3. Re-engineer public healthcare service delivery processes and, disclose medical drugs supply chain management decisions and updates

Language of the commitment as it appears in the action plan: "Re-engineer public healthcare service delivery processes and, disclose medical drugs supply chain management decisions and updates"

Main Objective: To create and entrench transparency, accountability and quality service standards in public healthcare facilities.

Milestones:
- Automation of county and sub-county hospitals
- Standardize facilities brand design, streamline flow and navigation through facilities and cascade service charters to all units
- Publicly declare available medical drugs and provide quarterly summaries of drugs received and quantities in stock
- Disclose morbidity information
- Improve infrastructure such as benches and television screens
- Conduct regular client satisfaction survey
- Conduct participatory quantification of drugs

Start Date: September 1, 2018   **End Date:** August 31, 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
1. Overall		✓	✓	✓					✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Editorial Note: The text above includes sections of the commitment text to fit this report. The complete text with specific responsible actors and completion dates per milestone can be found in the Local Action Plan II.

Context and Objectives

This commitment seeks to address challenges faced by residents of Elgeyo Marakwet in accessing healthcare services. The main objective of this commitment is to create and entrench transparency, accountability, and quality service standards in public healthcare facilities through re-engineering processes, tools, and systems. Specifically, the commitment seeks to create a standardized and consistent patient experience across all health facilities, and adopt program-based facility planning.

In this commitment, the government notes that public perception indicates long wait times at health facilities and inadequate referral procedures for common medical conditions and medicine.[76] This hinders access to timely and quality health services. As explained by the Head of Pharmaceutical

Services, citizens face two main challenges in health services: the availability of services and service providers, and substandard patient experience.[77]

Offered services vary with the level of the health facility; citizens lack information on what services are offered at the different facilities, resulting in dissatisfaction when referred to other facilities.[78] Sourcing and distribution of drugs to health facilities is based on morbidity information (disease prevalence) and quantification (the process by which drawing rights for each facility are determined based on approved budgetary allocations). However, such information is only available to healthcare workers. Furthermore, most health facilities have uncomfortable waiting areas and poor physical layouts, hence citizens experience long waiting times as they stand or try to find their way around hospital departments.[79]

In the LAP II, the government explains that budget allocations for drugs has declined since 2017, worsening drug shortages. One notable concern regarding health budgets is on the level of citizen engagement. Dr. Kiprop (Pharmaceutical services) and Mr. Maritim (County Director, Economic Planning)[80] explained that the government provided healthcare funding through development and recurrent budgets.[81] While development budgets involve public participation at proposal stages, recurrent budgets are only presented to citizens at approval stage. Citizens can comment on the establishment of a health facility, but have little influence on resource allocation to support those facilities' functions. Similarly, budget information such as collections from fees charged, and expenditure of the same (Appropriation-in-Aid) is not provided during this public participation, leaving citizens unaware of how such fees are spent.

This commitment is relevant to OGP values of access to information and civic participation. The commitment will enhance access to information by publishing information on drug availability and stock movement, and publish morbidity information. The commitment will also advance civic participation by involving CSOs and citizens in conducting participatory quantification of drugs for the health facilities.

The overall commitment language is specific enough to be verifiable. The activities are clearly detailed and the deliverables are measurable. The IRM researcher considers the commitment to have a moderate potential impact. As explained above, and in the LAP II, citizens face poor patient experiences, limited influence over budgets, and low budgets for healthcare. As explained by Dr. Kiprop and Mr. Ayienda, the citizen perspective on patient experience is influenced largely by the level of information available to them. For instance, citizens would not complain of unavailable services if they already knew that those services weren't offered at that particular facility.

The commitment activities demonstrate major steps forward in improving citizen access to information and engaging citizens in decision-making processes in the healthcare system. Ayienda noted that activities such as participatory quantification of drugs, publishing morbidity information, automation of healthcare facilities, and standardized branding will enable citizens to understand, appreciate, and participate in healthcare delivery processes.

Next steps
Healthcare programs are crucial to the wellbeing of any community. Expenditure data for the 2017/18 and 2018/19 financial years indicate that health is a priority sector in terms of budgetary allocation in Elgeyo Marakwet County. The sector accounted for approximately 37% of the county's spending in the three financial years.[82]

Building on this commitment, the government could expand opportunities for participatory budgeting at both the proposal and approval stages. For example, the government could coordinate public participation with the executive and the Assembly to allow citizens to give input not only on the development budget, but also on the recurrent budgets and Appropriations-in-Aid around healthcare services. This would enable citizens to participate, influence, and make informed decisions, on both the operational and infrastructural aspects of health facilities.

Regarding an open response and open recovery from the Coronavirus pandemic, this commitment could be expanded and redirected to include tracking, disclosure, and accessibility of information on the availability of hospital beds, testing sites, supply chain data, and personal protective equipment (PPE).[83]

[76] Government of Elgeyo Marakwet County, *Open Government Partnership Local Action Plan II (2018-2020)* (7 Sept. 2018), https://www.opengovpartnership.org/documents/elgeyo-marakwet-county-action-plan-2018-2020.

[77] Dr. Gideon Kiprop (Head, Pharmaceutical Department at County Government), interview by IRM researcher, 8 Mar. 2019.

[78] *Id*.

[79] *Id*. Ayienda.

[80] John Maritim (Director, Economic Planning and Budgeting) interview by IRM researcher, 22 Mar. 2019.

[81] Recurrent and development expenditures are explained in the guiding notes in the budget. *See* Section 1.4 of the 2018/2019 budget (file:///C:/Users/hp/Downloads/2018-19%20FY%20Budget%20-%20Mwananchi%20Edition%20(1).pdf).

[82] https://www.elgeyomarakwet.go.ke/index.php/downloads/send/4-publications/1960-2017-18-pbb-budget-approved and http://www.elgeyomarakwet.go.ke/index.php/downloads/send/4-publications/1941-2018-19-fy-approved-programme-based-budget-pbb.

[83] OGP, "A Guide to Open Government and the Coronavirus: Open Data" (4 May 2020), https://www.opengovpartnership.org/documents/a-guide-to-open-government-and-the-coronavirus-open-data/.

4. Establish, maintain and disclose accurate and updatable county development, service and budget data to inform decision making processes and citizen oversight

Language of the commitment as it appears in the action plan: "Establish, maintain and disclose accurate and updatable county development, service and budget data to inform decision making processes and citizen oversight"

Main Objective: To enhance transparency and accountability in planning and budgeting.

Milestones:
- Conduct baseline assessment on availability, use and need for data
- Develop policy for data generation, use and updating
- Create repository for unrestricted access to county data
- Segregate and disseminate simplified budget information
- Develop donor support policy
- Develop and publish work plans for conditional grants – supported programmes
- Summarize and publish project implementation system
- Disseminate through public participation, full records of Appropriations – in – Aid, loans and conditional grants and Donor supported development initiatives

Start Date: September 1, 2018 **End Date:** August 31, 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
1. Overall		✓	✓							✓	Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Editorial Note: The text above includes sections of the commitment text to fit this report. The complete text with specific responsible actors and completion dates per milestone can be found in the Local Action Plan II.

Context and Objectives

This commitment address insufficiencies in the availability of county data by providing a framework for the county government to analyze, regularly update, and disclose data on development and service delivery. This will enhance government transparency and facilitate informed decision-making and accountability.

The Kenya National Bureau of Statistics (KNBS) is a state corporation responsible for collecting, analyzing, and disseminating statistical data in Kenya, both nationally and at the county level.[84] Prior to this commitment, the county government relied on different data sources to inform planning and budgeting, depending on the availability of information.[85] Some of these sources include KNBS (e.g.,

projected growth rates) while the government and other institutions provide other information (e.g., service delivery data from health and agriculture sectors, disaster-related data).

The lack of county-specific data has impeded the government's ability to effectively plan and budget for the most needed and preferred public services. It's affected citizens', CSOs', and other stakeholders' ability to effectively perform oversight responsibilities. Felix Kipngetich[86] cited households affected by land- and mudslides, a common occurrence in Elgeyo Marakwet, whose information may not be available or updated on the national database, and yet it is crucial to enable the county to plan and budget for support programs.

John Maritim also explained that while the county made efforts to publish and disseminate budget information for citizen oversight, this budget data lacked adequate information such as notes on funding sources, conditional grants, loans, or donor support. Further, he noted that recurrent expenditure[87] and Appropriations-in-Aid (A-in-A)[88] were also not published for citizens to discuss at public participation forums. This often led to citizen queries on the application of funds collected, as evidenced in the case of health facility charges explained in Commitment 3.

Insufficient data also affects stakeholder participation in Elgeyo's governance. Henry Odhiambo[89] (Development Initiatives) explained that while some data was available, it was not presented in open data formats. His organization supported the county during the development of the County Integrated Development Plan (CIDP 2018−2022), and the main challenge experienced was the lack of baseline data to inform development planning, and provide a reference basis for monitoring and evaluating performance.

Further, Mark Irura (Open Institute)[90] notes that the health, water, and sanitation sectors were of most concern in terms of data. Key challenges in these sectors' data include (1) an absence of data collection frameworks—especially at local levels such as wards, (2) inadequate data validation mechanisms, (3) data confidentiality and privacy, and (4) poor dissemination. He also noted that while a lot of information that has been published qualified as being accessible and reusable, it is not machine-readable and fails to qualify as open data. Al Kags (Open Institute)[91] observed that that the main challenge is limited information, which impedes engagement and accountability with citizens and stakeholders.

This commitment is relevant to the OGP value of access to information. The commitment activities will improve the quality and quantity of information made available by the government, and establish frameworks to govern access and provision of such information.

Based on the text, the IRM researcher considers the commitment activities specific enough to be verified, with a potentially transformative impact. Improved public participation frameworks generate higher demand by citizens and stakeholders for government information. Maritim explained that citizens were asking for more budget information. He referred to an example where citizens asked to be informed of the usage of fees paid at the county hospital facility, which led to the commitment activity on publication of Appropriation-in-Aid information. The commitment will also not only provide and publish information that will facilitate informed decision-making, but also develop a framework for other actors such as donors to adhere to the government's public disclosure agenda. Kiprono (CIOG) noted that the open access data will be used by CSOs and CVAs (Citizen Voice and Action lobby groups) to conduct social audits and civic education for Annual Development Planning.[92]

Through this commitment, Elgeyo Marakwet is creating a framework to generate, maintain, analyze, and publish county-level data. Prior to this commitment, data was collected by a centralized agency, lacked relevance to the county, and was rarely available in an easily accessible format. Therefore, the commitment represents a significant improvement.

Next steps
Information is a critical resource for any government to deliver public services.[93] The data collected must be reliable, complete, and timely in order to facilitate effective decision-making. Counties face

many challenges in information provision due to limited digitization.[94] Through this commitment, Elgeyo Marakwet seeks not only to digitize information, but to publicly provide data to inform decision-making. During implementation, the government could make deliberate efforts to demonstrate how data and information provision informs decision-making, and hence achieve the desired transformative impact.

Going forward, the government could further link the data acquired through this commitment with citizen engagement in decision-making and accountability. The government could adopt measures to promote citizen use of the data to influence decision-making, and to enhance accountability efforts by government, CSOs, and citizens alike.

---

[84] For more information about the Kenya National Bureau of Statistics, *see* https://www.knbs.or.ke/.

[85] John Maritim (Director, Economic Planning and Budgeting), interview by IRM researcher, 22 Mar. 2019.

[86] Felix Kipngetich (Economist, department of Economic Planning), interview by IRM researcher, 22 Mar. 2019.

[87] "Recurrent expenditures" are annually recurring budgetary provisions for government operations, such as employees' salaries, transport expenses, and equipment maintenance. For more information on recurrent expenditures, *see* Institute of Economic Affairs, *The Citizens Handbook on the Budget: A Guide to the budget process in Kenya* (9 Oct. 2010), http://www.ieakenya.or.ke/publications/books/the-citizens-handbook-on-the-budget-a-guide-to-the-budget-process-in-kenya-1st-edition.

[88] "Appropriation-in-Aid" is money collected by government institutions through service charge or fees, and which the institution obtains Treasury approval to finance its own operations. For more information, *see* Institute of Economic Affairs, *The Citizens Handbook on the Budget: A Guide to the budget process in Kenya.*

[89] Henry Odhiambo (Engagement and Partnership Manager, Development Initiatives), telephone interview by IRM Researcher, 16 May 2019.

[90] Mark Irura, "Training Of The Open County Initiative To Elgeyo Marakwet County Sector Data Champions" (Open Institute, 25 Apr. 2019), https://openinstitute.com/training-of-the-open-county-initiative-to-elgeyo-marakwet-county-sector-data-champions/.

[91] Al Kags (Director, Founder and Trustee, Open Institute), telephone interview by IRM Researcher, 16 May 2019.

[92] Timothy Kiprono (Executive Director, Center for Innovations in Open Governance), interview by IRM Researcher, 19 Sept. 2019.

[93] http://kippra.or.ke/wp-content/uploads/2017/05/Opportunities-and-Challenges-under-Devolved-System-of-Government-Issue-10-2-October-December-2018-1.pdf

[94] *Id*.

5. Strengthen linkages for youth and other special interest groups to broaden capacity development opportunities to catalyze their empowerment

Language of the commitment as it appears in the action plan: "Strengthen linkages for youth and other special interest groups to broaden capacity development opportunities to catalyze their empowerment"

Main Objective: To enhance access to empowerment opportunities for youth, women and special interest groups.

Milestones:
- Develop integrated digital database profiling the special interest groups
- Install and update electronic public display billboards, television screens in health facilities and county website
- Equip and integrate ICT centers and make them youth friendly
- Develop framework to tap on youth technical skills, business incubation facilities and guidance for private sector engagement
- Create linkage to financial institutions, technical expertise, markets, etc.
- Establish county digital jobs committee
- Establish youth empowerment service desk

Start Date: September 1, 2018   **End Date:** August 31, 2020

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
1. Overall		✓	✓			✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

Editorial Note: The text above includes sections of the commitment text to fit this report. The complete text with specific responsible actors and completion dates per milestone can be found in the Local Action Plan II.

Context and Objectives
The main aim of this commitment is to leverage ICT platforms to increase accessibility of existing economic empowerment opportunities for special interest groups (SIGs).

Prior to this commitment, the national government adopted several reforms to empower women, youth, people living with disabilities (PLWDs), and other SIGs to generate income for themselves and find employment opportunities, including self-employment. These reforms include revolving funds (such as Youth Enterprise Development Fund, Women Enterprise Fund, Uwezo Fund, and the Older Persons, Orphaned and Vulnerable Children and Persons with Severe Disability Cash Transfer Programs), reservations for procurement opportunities (such as the AGPO Presidential directive

that requires 30% of all government procurement to be reserved for the youth, women, and PLWDs),[95] and legislation that underpins the government's commitment to support SIGs (such as the Constitution of Kenya 2010, the National Youth Policy 2002, the Kenya Persons with Disability Act 2003, and the Social Assistance Act 2013).[96] These reforms and programs are coordinated by different government departments, and do not have a centrally coordinated approach to reach out to the target beneficiaries

In the LAP II, the county government notes that these national reforms still face barriers that bar SIGs from securing meaningful employment. Such barriers include poor access to information on available opportunities, inadequate skills to secure or sustain meaningful employment, and limited access to financial facilities. In addition, the reforms have had little sustainable impact due to a lack of necessary mentorships and links with technical experts and markets.[97]

The Center for Enhancing Democracy and Good Governance identified "low capacity to identify opportunities and/or ideas for entrepreneurship" as a limiting factor in empowering women, youth, and PLWDs.[98] Victor Mose (Kenya Institute for Public Policy Research and Analysis) notes that the missing link regarding business opportunities for PLWDs in Kenya is entrepreneurial competency.[99] According to the Ag. Chief Officer for Sports, ICT, Youth and Social Services, Mike Mosi,[100] SIGs in Elgeyo Marakwet are generally more disadvantaged because of the rural economy of the county. He noted that most SIGs in the county had inadequate access to internet services and limited business skills, and were further limited by poor infrastructure coverage.

Through this commitment, the county government will bridge the gap between the opportunities available to SIGs and their accessibility. The government will provide links for SIGs to access and reap sustainable benefits from existing empowerment opportunities. This will be done by developing, updating, and transmitting a database of available opportunities, strengthening access to financial opportunities for businesses and start-ups, and promoting mentorship programs.

The commitment is relevant to OGP values of access to information, technology, and innovation for transparency. The commitment activities, such as installing and updating public display billboards and television screens, facilitating ICT centers, establishing a county digital jobs committee, and creating a youth empowerment service desk all aim to improve citizen access to information. Although information on opportunities is currently openly available,[101] the government identifies the aforementioned challenges facing its citizens in accessing these opportunities, and hence the need to collect, collate, and share this information within Elgeyo Marakwet. In addition, the real time use of public billboards, television screens, and the county website for transmitting employment information is relevant to the OGP value of technology and innovation for transparency.

The IRM researcher considers the commitment language specific enough to be verified, with moderate potential impact. As discussed above, information on empowerment opportunities for SIGs are already available, both online and offline. However, such information lacks a centralized coordination strategy to reach target respondents in all parts of the country. The national government is decentralizing access to government information and services through the creation of Huduma centers. The centers have various government department representatives to serve citizen needs and requests, including access to government procurement and empowerment opportunities. One such center was opened in the county headquarters, Iten, in 2017. The county government will use this commitment to further advance and provide channels of information dissemination to its citizens, and offer the missing entrepreneurial skills and links that SIGs need.

Milestone 35 will develop an integrated digital database of all SIGs in the county. According to Magrine Serem,[102] the County director of Gender and Social Services, profiling SIGs will enable the government to identify the unique challenges facing different groups. This will, in turn, facilitate discussion to address these challenges. This addresses the SIG concern that youth, women, PLWDs, and children were considered together as SIGs, yet each category had unique challenges and needs.[103] Joseph Rono (People Living with Disability) recommended that government considers identification and mapping of the different groups to ensure that the needs of each group are addressed. Serem also noted that the database will inform budget decisions regarding SIGs.

Milestones 36, 37, 40, and 41 will improve citizen access to information by introducing real time information sources (such as public billboards), service desks, a job committee, and ICT centers. Furthermore, Milestones 37 and 41 also provide reference centers for business incubation, innovation, and documentation of best practices.

Milestones 38, 39, and 40 establish links for partnerships, mentorships, and financial access, the lack of which previously hampered empowerment programs. These activities will enable SIGs to access technical expertise and mentorships, financial support, and markets, which will facilitate the sustainability of empowerment programs. Rono noted that these milestones represent a new government effort to economically empower SIG programs, while the other milestones advanced pre-existing efforts.

Next steps

This commitment seeks to improve SIG participation in the labor market through improved access to information. However, the government also has an opportunity to promote civic participation. Specifically, the government could engage SIGs in making decisions about the milestone activities. This way, the government can use citizen participation in this effort and   generate interest in other governance processes.

[95] For information on these reforms, *see* Youth Enterprise Development Fund (http://www.youthfund.go.ke/), Women Enterprise Fund (http://www.wef.co.ke/), Uwezo Fund (http://www.uwezo.go.ke/), Social Protection (http://www.socialprotection.or.ke/), and Access to Government Procurement Opportunities (https://agpo.go.ke/).

[96] This legislation is available at: http://kenyalaw.org/.

[97] Government of Elgeyo Marakwet County, *Open Government Partnership Local Action Plan II (2018-2020)* (7 Sept. 2018), https://www.opengovpartnership.org/documents/elgeyo-marakwet-county-action-plan-2018-2020.

[98] Centre for Enhancing Democracy & Good Governance, *Funds for Empowerment of Women, Youth, and Persons with Disability* (Jul. 2016), http://cedgg.org/wp-content/uploads/2018/10/CEDGG-BOOKLET-1_to.pdf.

[99] Victor Mose, "Tightening affirmative action on employment of persons with disabilities" http://kippra.or.ke/tightening-affirmative-action-on-employment-for-persons-with-disabilities/.

[100] Mike Mosi (Ag. Chief Officer, Sports, ICT, Youth and Social Services), interview by IRM researcher, 07 Mar. 2019.

[101] *See* note 98.

[102] Magrine Serem (County Director, Gender and Social Services), interview by IRM Researcher, 7 Mar. 2019.

[103] Joseph Rono (CSO representative for People Living with Disabilities PLWD), interview by IRM Researcher, 8 Mar. 2019.

V. General Recommendations

This section informs development of the next action plan and guides implementation of the current action plan. It is divided into two sections: 1) IRM key recommendations to improve OGP process and action plans in the country or entity and, 2) an assessment of how the government responded to previous IRM key recommendations.

5.1 IRM Recommendations

The Local Action Plan II for Elgeyo Marakwet builds on concerns discussed and agreed upon during co-creation, lessons and recommendations from the previous action plan, and the county's desire to entrench open governance in its processes. While the action plan describes growth in open governance since Elgeyo Marakwet joined OGP, the government could further improve in the following areas.

1. *Establish an OGP webpage on the county website*: provision of information and updates on OGP processes is important, not only to researchers and academics for monitoring and evaluating progress, but also to the larger OGP community, development partners, citizens of Elgeyo Marakwet, and other stakeholders.

    In IRM assessments, a country acts contrary to process when "the government fails to collect, publish and document a repository on the national OGP website/webpage in line with IRM guidance."[104]

2. *Establish a legal mandate for continuity of open government initiatives*: the Executive leadership, in collaboration with the County Assembly, could consider passing legislation to provide a legal mandate for open governance. This would ensure continuity not only for OGP undertakings, but also for other open governance initiatives now and in the future. OGP recommends governments establish a legal mandate as this shows commitment by governments to institutionalize the open governance processes and initiatives. The legal mandate could also institutionalize stakeholder engagement such as incorporation of new stakeholders, consultation methods, and engagement at all action plan stages (design, implementation, monitoring, and evaluation). The government could also integrate all OGP activities into performance management, such as staff performance contracts, in order to provide an institutionalized platform for continued implementation and assessment.

    To ensure sustainability during political transitions, OGP has guidance in the OGP Handbook. IRM has also collected lessons from Latin America and elsewhere.[105]

3. *Establish a strategy to fund implementation and design of action plans*: In LAP II, co-creation happened when the government had already conducted its budgetary planning and hence the government was unable to include any provisions in the 2019/2020 budget. However, during interviews with the Governor and the POC,[106] the government expressed keen desire to consider making budgetary provisions in the 2020/2021 financial year to support OGP activities.

    In light of this, the researcher recommends that the government consider prioritizing budgetary provisions to facilitate the implementation of OGP commitments and activities. The government could leverage relationships with existing stakeholders, such as World Vision, GIZ, Open Initiative, and Development Initiatives, and explore networks with other actors to support implementation. Further, the government could document a strategy for resource mobilization (both internal and donor funding) to

support co-creation and implementation of future action plans and open governance initiatives.

4. *Implement activities to demonstrate changed government practices and the impact on citizens and intended beneficiaries.* In this action plan, four of the five commitments have moderate potential impact. Commitment leaders could collaborate with CSOs to ensure that their activities are implemented and documented in a verifiable manner to demonstrate changed government practices and public impact. The MSF could work with stakeholders to support the government in implementing commitments beyond mere development of policies and actually apply these policies in order to achieve measurable changes in opening up government. The MSF could also support the government and CSOs to design future action plans with specific, verifiable, and ambitious language to facilitate better assessments of potential impact.

5. *Design and implement specific, measurable activities that demonstrate and promote accountability.* Elgeyo Marakwet's desire for accountability is entrenched in its two action plans; LAP I has two of four commitments that relate to public accountability and LAP II has three of five commitments that do so. However, none of these commitments explain how their activities will hold government answerable.

During implementation, the government could design and implement specific, measurable activities that provide opportunities for holding government answerable, and hence, promote accountability. Further, the government could promote citizen and CSO audits of the government's performance on implementing the plan's activities. In future plans, the government could prioritize activities that that call upon government actors to justify their actions, act upon criticisms or requirements made of them, and create a robust grievance redress mechanism with respect to laws or commitments.

Special considerations in response to COVID 19:
- Although connectivity may be challenging, the government could invest in a website, social media, or other communication channels for public and CSO engagement. The IRM recommends the tools found in OGP's recent publication "Taking the OGP Co-Creation Process Online."[107]
- The MSF should identify how COVID can hinder plan implementation, and work with CSOs to use OGP in facing these problems.
- Use Commitments 1 and 3 to ensure response and recovery efforts are open. Work from current commitments on public procurement and health-service delivery can be expanded to include publication of COVID containment and management. An open response and open recovery approach could use the procurement policies and guidelines developed under Commitment 1 to ensure emergency procurement of medical supplies is transparent. The *Guide to Open Government and the Coronavirus* includes tips and examples on how the OGP platform can encourage transparency and accountability during the pandemic.[108]

Table 5.1: Five Key Recommendations

1	Establish OGP website or webpage in the county website
2	Establish a legal mandate for continuity of open government initiatives
3	Establish a strategy to fund implementation and design of action plans
4	Implement activities to demonstrate changed government practices and the impact on citizens and intended beneficiaries

5	Design and implement specific, measurable activities that demonstrate and promote accountability

5.2 Response to Previous IRM Key Recommendations

Table 5.2: Previous IRM Report Key Recommendations

	Recommendation	Responded to?	Integrated into Current Action Plan?
1	Improve design of commitments to achieve transformative results	✔	✔
2	Build on the existing Steering Committee (SC) framework to establish an advanced approach for stakeholder engagement	✔	✔
3	Improve coordination between county and national OGP processes	✔	✖
4	Establish a legal mandate and budgetary provisions for continuity	✔	✖
5	Improve documentation and access to information	✔	✔
6	Undertake civic education and awareness creation	✔	✔

The government responded to all the six recommendations from Local Action Plan I, and integrated four of them into LAP II.

The 2017 action plan was the first for the local government, and it focused on establishing systems for citizen engagement through access to information and creating spaces for civic participation.

In the 2018−2020 action plan, the government advanced its ambition by collecting input from citizens and designing commitments that addressed challenges faced by both citizens and government officials. Further, while building on the ambition of the action plan, the government addressed Recommendation 2 and transformed the steering committee into a multistakeholder forum that included more actors and wider responsibilities in the OGP processes.

The framework for stakeholder engagement is further addressed by the proposed policy for the establishment and operation of various forums such as the Multistakeholder Development Forum, the Sector Working Groups, and the Thematic Development Groups (Commitment 2). Timothy Kiprono (CIOG)[109] explained that the expanded co-creation process addressed three of the recommendations: improve ambition through wider engagement and consultations; widen stakeholder engagement; and support civic education and build awareness among citizens and stakeholders of the OGP processes.

Although Recommendation 3 and 5 were addressed, they were not incorporated in the current action plan. As explained by the government POC, the local government commitments were not bound to the national action plan; Elgeyo Marakwet's commitments

were based on its priorities, and the government considered activities it believed were achievable given the timeframe and available resources.[110] However, the IRM researcher notes that the National Action Plan 2018−2020 intends to establish mechanisms for shared learning, not only with Elgeyo Marakwet, but also with other African governments.[111] Governor Alex Tolgos[112] also explained that the action plan cycle began after the budget was approved. However, he was optimistic that in the financial year 2019/2020, the government would commit some funds to support the OGP processes in the county.

[104] For IRM guidance on establishing repositories, *see*:
https://www.opengovpartnership.org/sites/default/files/IRM%20Guidance%20for%20Repositories_to%20share.pdf.
[105] OGP, *OGP Handbook: Rules + Guidance for Participants* 4.0 (Feb. 2019),
https://www.opengovpartnership.org/wp-content/uploads/2019/03/OGP_Handbook-Rules-Guidance-for-Participants_20190313.pdf; Gustavo Perez Ara and Denisse Miranda, "Open government reforms in times of political transitions: lessons from Latin America" (25 May 2018),
https://www.opengovpartnership.org/stories/open-government-reforms-in-times-of-political-transitions-lessons-from-latin-america/.
[106] H.E. Eng. Alex Tolgos (Governor, Elgeyo Marakwet County) and John Maritim (Government POC, and Director of Economic Planning),I nterview by IRM Researcher, 25 Feb. 2019.
[107] OGP, "Taking the OGP Co Creation Process Online" (4 Jun. 2020),
https://www.opengovpartnership.org/documents/taking-the-ogp-co-creation-process-online/.
[108] OGP, *The Guide to Open Government and the Coronavirus* (25 Aug. 2020),
https://www.opengovpartnership.org/documents/a-guide-to-open-government-and-the-coronavirus/.
[109] Timothy Kiprono (Executive Director, Center for Innovations in Open Governance), interview by IRM Researcher, 25 Feb. 2019.
[110] John Maritim (Government Point of Contact, and Director, Economic Planning and Budgeting), interview by IRM Researcher, 25 Feb. 2019.
[111] Government of Kenya, "Commitment 6" in *Open Government Partnership (OGP) National Action Plan III 2018 – 2020* (10 Dec. 2018), https://www.opengovpartnership.org/documents/kenya-action-plan-2018-2020.
[112] Tolgos, interview.

VI. Methodology and Sources

The IRM reports are written by researchers for each OGP-participating country or entity. All IRM reports undergo a process of quality control to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, observation, and feedback from nongovernmental stakeholders. The IRM report builds on the evidence available in Elgeyo Marakwet's OGP repository (or online tracker),[113] website, findings in the government's own self-assessment reports, and any other assessments of process and progress put out by civil society, the private sector, or international organizations. At the beginning of each reporting cycle, IRM staff share a research plan with governments to open a seven-day period of comments or feedback regarding the proposed research approach.

Each IRM researcher carries out stakeholder interviews to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested parties or visit implementation sites. Some contexts require anonymity of interviewees and the IRM reviews the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary during the pre-publication review period of each report.

Each report undergoes a quality-control process that includes an internal review by IRM staff and the IRM's International Experts Panel (IEP). Each report also undergoes an external review where governments and civil society are invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.[114]

Interviews and stakeholder input

In writing this report, the IRM researcher conducted interviews with a wide range of stakeholders who were identified from participants in the co-creation process. The stakeholders ranged from the MSF members, commitment leads, and actors including government officials, CSOs, and nongovernmental stakeholders.

The IRM researcher held 13 in-person interviews[115] and 2 telephone interviews.[116] The researcher started the assessment by meeting with the government POC, Maritim,[117] to discuss the assessment process and target respondents. The researcher also met with Timothy Kiprono[118] (CIOG) to get a deeper understanding of the co-creation process and the actors who were involved. Kiprono was key in the co-creation process, and his organization, CIOG, won an award from the OGP trust fund to support Elgeyo Marakwet in the co-creation process. The researcher then mapped out the key respondents for the assessment. Two final meetings were subsequently held with Maritim[119] and Kiprono.[120]

The government scheduled an MSF meeting for 25 February 2019 where the agenda included introducing the researcher to the MSF and describing the assessment process and methodology. Although this meeting did not commence for lack of quorum, the researcher shared materials (including PowerPoint slides and interview questions) with the government POC. The researcher later met some of the MSF members and was provided an opportunity to seek additional information from the thematic groups, government officials involved in implementation of commitments, and CSOs.

The IRM researcher then met separately with the head of government, H.E. Eng. Alex Tolgos,[121] and each of the commitments' actors in six respective meetings. The commitment actors were also part of the thematic groups that deliberated on the issues raised from the

government and community listening tours and worked closely with the MSF to come up with the commitments and milestones.

The researcher also met with nonstate actors in two meetings. One meeting was a focus group discussion with CSOs under their umbrella body, the Elgeyo Marakwet Network for CSOs. This was held on 8 March 2019 and seven CSO representatives were present. In the discussions, the researcher gathered information on the level of engagement during co-creation, the methods of problem identification and selection of commitments, as well as the CSO opinions on the potential impact of the commitments. Another meeting was held with Kimutai Chemitei[122] from the Iten Business Community.

The researcher also attended two major events around the action plan process. The first event, the Africa Local Convention, organized by OGP in collaboration with the County Government of Elgeyo Marakwet, was held between 30 April and 2 May, 2018. During these three days, several activities occurred. On 30 April 2018, the researcher conducted the dissemination exercise for the IRM report on the first action plan. The researcher, joined by Gustavo Perez Ara, Senior Research Officer for the OGP Local Program, discussed the findings of the IRM assessment with government officials and lead CSOs who were involved in the co-creation and implementation of LAP I. On 1 May 2018 there was a peer-learning activity, where government representatives and CSOs from the four African pioneer countries in the local program (Elgeyo Marakwet, Kenya; Sekondi Takoradi, Ghana; Kigoma, Tanzania; and Kaduna, Nigeria) met to share ideas and progress. On 2 May 2018, there was a public event, where the government invited citizens, government officials, and CSOs in Elgeyo Marakwet to participate in open discussions around open governance, and learn from the other participating African governments and OGP leadership, including the Deputy CEO of OGP, Joe Powell. This event culminated in the launch of the co-creation process for the LAP II.[123]

The second event the researcher participated in was the launch of the finalized Action Plan II, which was held 21 November 2018. The head of government, county cabinet members, and representatives of the Assembly, CSOs, and nongovernmental actors attended the launch. During this event, government officials explained the objectives and the activities of the commitments and nonstate actors expressed their support to Elgeyo Marakwet.

About the Independent Reporting Mechanism

The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries and entities. The International Experts Panel (IEP) oversees the quality control of each report. The IEP is comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Fredline M'Cormack-Hale
- Showers Mawowa
- Juanita Olaya
- Quentin Reed
- Rick Snell
- Jean-Patrick Villeneuve

A small staff based in Washington, DC, shepherds reports through the IRM process in close coordination with the researchers. Questions and comments about this report can be directed to the staff at irm@opengovpartnership.org.

[113] Available at: https://drive.google.com/drive/folders/1sv9ov3P8XADy1Y8Y-ZIvRS2DLR_ZdP4k.

[114] OGP, *IRM Procedures Manual* 3 (16 Sept. 2017), https://www.opengovpartnership.org/documents/irm-procedures-manual.

[115] The attendance lists for each of these meetings can be found here: https://drive.google.com/drive/u/0/folders/1PVsBwoQupGSfvC-jt0bozPqruuScFF40.

[116] Telephone interviews with Al Kags from the Open Institute, and Henry Odhiambo from Development Initiatives, were held 16 May 2019.

[117] John Maritim (Government Point of Contact, and Director Economic Planning), interview by IRM Researcher, 14 Feb. 2019.

[118] Timothy Kiprono (Executive Director, Center for Innovations in Open Governance), interview by IRM Researcher, 14 Feb. 2019.

[119] John Maritim (Government Point of Contact, and Director Economic Planning), interview by IRM Researcher, 25 Feb. 2019 and 22 Mar. 2019.

[120] Timothy Kiprono (Executive Director, Center for Innovations in Open Governance), interview by IRM Researcher, 25 Feb. 2019 and 22 Mar. 2019.

[121] H.E. Eng. Alex Tolgos (Governor, Elgeyo Marakwet) and John Maritim (Government POC), interview by IRM Researcher 25 Feb. 2019.

[122] Kimutai Chemitei (Representative, Iten Business Community and member of Elgeyo Marakwet MSF), interview by IRM Researcher, 22 Mar. 2019.

[123] For more information about the Africa Local Convention, please visit: https://www.opengovpartnership.org/stories/kenyas-elgeyo-marakwet-county-hosts-africa-ogp-convention.

Annex I. Overview of Elgeyo Marakwet's performance throughout action plan development

Key:
Green= Meets standard
Yellow= In progress (steps have been taken to meet this standard, but standard is not met)
Red= No evidence of action

Multistakeholder Forum	
1a. Forum established: There is a forum to oversee the OGP process.	Green
1b. Regularity: The forum meets at least every quarter, in person or remotely.	Green
1c. Collaborative mandate development: Members of the forum jointly develop its remit, membership and governance structure.	Green
1d. Mandate public: Information on the forum's remit, membership and governance structure is available on the OGP website/page.	Red
2a. Multistakeholder: The forum includes both governmental and nongovernment representatives.	Green
2b. Parity: The forum includes an even balance of governmental and nongovernmental representatives.	Green
2c. Transparent selection: Nongovernmental members of the forum are selected through a fair and transparent process.	Yellow
2d. High-level government representation: The forum includes high-level representatives with decision-making authority from government.	Green
3d. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum.	Green
3e. Remote participation: There are opportunities for remote participation in at least some meetings and events.	Green
3f. Minutes: The OGP forum proactively communicates and reports back on its decisions, activities and results to wider government and civil society stakeholders.	Green

Key:
Green= Meets standard
Yellow= In progress (steps have been taken to meet this standard, but standard is not met)
Red= No evidence of action

Action Plan Development	
4a. Process transparency: There is a national OGP website (or OGP webpage on a government website) where information on all aspects of the national OGP process is proactively published.	Yellow
4b. Documentation in advance: The forum shares information about OGP to stakeholders in advance to guarantee they are informed and prepared to participate in all stages of the process.	Yellow
4c. Awareness-raising: The forum conducts outreach and awareness raising activities with relevant stakeholders to inform them of the OGP process.	Green
4d. Communication channels: The government facilitates direct communication with stakeholders to respond to action plan process questions, particularly during times of intense OGP activity.	Green
4e. Reasoned response: The multistakeholder forum publishes its reasoning behind decisions and responds to major categories of public comment.	Yellow
5a. Repository: Government collects and publishes a document repository on the national OGP website/webpage, which provides a historical record and access to all documents related to the national OGP process, including (but not limited to) consultation documents, National Action Plans, government self-assessments, IRM reports and supporting documentation of commitment implementation (e.g., links to databases, evidence of meetings, publications).	Yellow

Editorial note: If a country "meets" the six standards in bold IRM will recognize the country's process as a Starred Process.