

REPORT OF THE AUDITOR-GENERAL ON AGRICULTURE AND FOOD AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2023

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient, and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Agriculture and Food Authority set out on pages 1 to 67, which comprise of the statement of financial position for the year ended 30 June, 2023, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material

respects, the financial statements of Agriculture and Food Authority for the year ended 30 June, 2023, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual) and comply with the Public Financial Management Act, 2012.

Basis for Qualified Opinion

1. Long-Outstanding Debts from Exchange Transaction

The statement of financial position reflects long-term receivables from exchange transactions balance of Kshs.3,112,161,000 as disclosed in Note 22(b) to the financial statements. The balance includes amounts due from levy arrears and Sugar Development Fund of Kshs.2,883,039,000 and Kshs.229,122,000 respectively both totalling to Kshs.3,112,161,000. These balances have been outstanding for over three years without any recoveries to date. In addition, the Authority has made no provision for doubtful debts as provided for in paragraph 7.4.1 of Agriculture and Food Authority Finance Policy and Procedures manual 2018.

In the circumstances, the accuracy and recoverability of long-term receivables of Kshs.3,112,161,000 could not be confirmed.

2. Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment net book balance of Kshs.11,308,026,000 and as disclosed in Note 24 to the financial statements. Review of records revealed the following anomalies.

2.1. Unconfirmed Ownership of Land

- i. The balance includes seventeen (17) parcels of freehold land valued at Kshs.6,664,284,000 out of which thirteen (13) parcels of land valued at Kshs.5,170,700,000 had no evidence of ownership vesting with the Authority due to lack of ownership documents,
- ii. As previously reported, the balance includes land on which six of the seven depots of the defunct Horticultural Crops Development Authority (HCDA) are located do not have ownership documents. In addition, the depot located in Machakos County was taken over by the County Government of Machakos for office use in the year 2013 and is no longer accessible to the Authority staff and no evidence was provided that the county Government signed a lease agreement with the HCDA.
- iii. Included in the property, plant and equipment balance are two parcels of land valued at Kshs.1,280,000,000 relating to the former Horticultural Crops Development Authority. The parcels include a plot situated along Mombasa Road, measuring 3.5 hectares valued at Kshs.692,000,000 which was allocated to a private developer despite the Authority having an allotment letter and a parcel of land at the Jomo Kenyatta International Airport (JKIA) valued at Kshs.588,000,000 where the Horticultural Crops Directorate (HCD) is located whose details of ownership was not provided.

2.2. Exclusion of Property, Plant and Equipment

As reported in previous years, the property, plant and equipment balance exclude values of various assets as explained below:

- i. Ten (10) acres of land situated in Wundanyi, Taita-Taveta County;
- ii. Land of undetermined acreage situated in Kitui valued at Kshs.36,600,000 allocated to the defunct Horticultural Crops Development Authority.
- iii. Land of undetermined acreage valued at Kshs.4,000,000 allocated to the defunct Cotton Board of Kenya.
- iv. Seven (7) acres of land in Mtwapa that was allocated to the defunct Kenya Coconut Development Authority by the defunct Kenya Agricultural Research Institute (KARI). In addition, the ownership had not been transferred by the KARI to the Authority by the time it ceased to exist upon the commencement of the Crops Act, 2013.
- v. The property in Riverside Estate where the defunct Cotton Development Authority's head office was located.

2.3. Failure to Revalue Fully Depreciated Assets

The statement of financial position and as disclosed in Note 24 to the financial statements reflects historical cost of property, plant and equipment of Kshs.13,151,476,000. Review of the assets register revealed that assets with a historical cost of Kshs.1,434,254,000 that were fully depreciated were still in use by the Authority. No explanation from Management has been given for failure to revalue the assets to reflect their fair values.

2.4. Logbooks in the Name of Defunct Institutions and Boards

The property, plant and equipment balance includes an amount of Kshs.89,870,000 relating to motor vehicles. Review of related records held by the Authority revealed that on commencement of the Crops Act, 2013 on 1st August, 2014, the former Regulatory Institutions in the Agriculture Sector were merged into Directorates under the Authority. As reported in the previous year, the ownership documents of seventeen (17) motor vehicles are still registered in the defunct institutions' names. Evidence of Management effort to register the vehicles in the Authority's name was not provided.

In the circumstances, the accuracy and completeness of property, plant and equipment of net book balance of Kshs.11,308,026,000 could not be confirmed.

3. Unsupported Fixed Deposit Account Balances

The statement of financial position reflects cash and cash equivalents balance of Kshs.3,197,838,000, and as disclosed in Note 20 to the financial statements. Included in this balance is fixed deposit account balances amounting to Kshs.1,745,819,000. The balance further includes an amount of Kshs.8,582,000 held in an escrow account. Management explained that a judgement releasing the money to the creditor was made on 8 November, 2017. It is not clear why the amount is still reflected in the Authority's books. In addition, the balance was not supported with a bank statement or certificate of

bank balance.

Further, the balance also includes Kshs.52,237,000 held at Euro Bank, which was placed under receivership. Payments are pegged on availability of funds thus the amount is still not accessible to the Authority.

In the circumstances the accuracy and completeness of cash and cash equivalents balance of Kshs.3,197,838,000 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Agriculture and Food Authority Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Prior Year Matters

Several issues were raised in the audit report of the previous year. However, Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circulars.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

Failure to Operationalize the Cane Testing Unit

The statement of financial performance reflects expenditure on special programmes of Kshs.673,480,000 which as disclosed in Note 14 to the financial statements includes expenditure on cane testing units of Kshs.587,430,000. Records provided for audit revealed that the Authority entered into a contract ref AFA/LM/CON/31/2020 with a firm

in the year 2020, for provision of a comprehensive support and maintenance of eleven (11) Cane Testing Units (CTUs) and upgrade of two (2) pilot Cane Testing Units (CTUs) at Sony Sugar Co. Limited and Nzoia Sugar Co. Limited at a total contract sum of Kshs.1,395,293,094.

Physical verification of the works in the beneficiary sugar companies in September, 2023 and review of project records revealed the following anomalies;

- i. Despite the units having been installed in the eleven (11) sugar companies, none has operationalized the Quality-Based Cane Payment System (QBCPS) on the cane delivered rather than on tonnage as no single miller has fully adopted the cane testing unit in its operation.

Although the Management has explained that the Authority developed regulations, The Crops Act, 2013, that will enable operationalization, and that the same has been approved by the Sector Technical Working Group (SWAG) Committee, the operationalization and adoption of the cane testing units by the sugar companies has remained impossible due to failure to enact these regulations to law.

- ii. Though there is a functioning Laboratory Information Management System capable of capturing primary data, the same was not integrated with the weighbridges, sampling point, payment and data collection systems and neither were their card readers to pick the farmers details in their respective factories. The existing millers' ERP systems have also not been integrated with the cane testing units.
- iii. In West Sugar and Sukari Sugar Companies, weighbridges were not aligned to the Cane Testing Units making it difficult to ensure every truck goes through both the cane testing units and the weighbridge.

In the circumstances, delay in operationalization of the cane testing units may result to cost overruns and the intended objective of the project may not be achieved.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Authority or to cease its operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Authority's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to overall governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal controls that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

15 January, 2024