

REPORT OF THE AUDITOR-GENERAL ON KENYA BIOVAX INSTITUTE LIMITED 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

Opinion

I have audited the accompanying financial statements of Kenya Biovax Institute Limited set out on pages 1 to 14, which comprise of the statement of financial position as at 30 June, 2023, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statements of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Kenya Biovax Institute Limited as at 30 June, 2023, and of its financial

performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Public Finance Management Act, 2012 and Medical Practitioners and Dentists Act, Cap.253 Laws of Kenya.

Basis for Opinion

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

Key Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters 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

1. Non-Maintenance of an Asset Register

During the year under review, the Institute did not provide for audit an asset register which contain key information such as historical cost of assets, date of acquisition and physical location of the asset as required in an asset register. This was contrary to Regulation 143 (1) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, Management was in breach of the law.

2. Non-Deduction and Remittance of Statutory Deductions

During the year under review, the Institute did not deduct nor remit National Social Security Fund deductions amounting to Kshs.5,600 and National Health Insurance Fund deductions amounting to Kshs.53,450. Further, Management did not provide evidence of remission of Pay As You Earn (PAYE) estimated at Kshs.3,384,853. Non-remission of taxes to respective Authorities may result in imposition of penalties and interests.

In the circumstances, Management was in breach of the law.

3. Lack of Strategic Plan

As previously reported, during the year the Institute has not put in place a strategic plan to guide on future milestones in its endeavor to fulfil its mandate, this was contrary to Section 68 of the Public Finance Management (National Government) Act, 2015 which states that an Accounting Officer shall prepare a strategic plan for the entity in conformity with the medium term fiscal framework and fiscal policy objectives of the national government.

In the circumstances, Management was in breach of the law.

4. Lack of Board Charter

As previously reported, during the year under review, the Institute operated without a charter contrary to the provisions of Section 1.11(1,2) of Mwongozo Code on management of state corporations.

In the circumstances, Management was in breach of the law.

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, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Wrong Computation and Remittance of Taxes

Note 14 to the financial statements reflects property, plant and equipment balance of Kshs.29,047,643. The balance includes an amount of Kshs.13,838,800 in respect of motor vehicle while the purchase price was Kshs.11,930,000 and hence resulting to a tax overpayment of Kshs.1,908,800 to Kenya Revenue Authority. Though Management has initiated the process of claiming the amount, the refund had not been received as at 30 June, 2023.

In the circumstances, the internal controls on tax computations could not be confirmed.

2. Weakness in Internal Controls

The Kenya Biovax Institute Limited was established in September, 2021 as a State Corporation under the Ministry of Health, by the Companies Act, 2015 to have a comprehensive framework for the manufacture and commercialization of vaccines, therapeutics and diagnostics; support technology transfer and commercialization of outputs on Healthcare Products and Technologies (HPTs) from research institutions, and universities.

However, the Institute is not fully operational and the following deficiencies were noted;

No.	Observation	Guiding Law/Principle	Risk
1	Lack of an Internal Audit Department	Section 73 (1)(a) of the Public Finance Management Act, 2012 states that every national government entity shall have appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board. Further, Sub-sections 4 and 5 states that a national government entity shall ensure that internal audits in respect of the entity are conducted in accordance with international best practices.	Lack of internal audit may lead to ineffective internal controls and non-compliance with the relevant laws, rules and regulations.
2	Lack of Risk Management Policies	Public Finance Management Regulations 2015 Section 165-part (1) states that the accounting officer shall ensure that the national government develops a) risk management strategies which include fraud prevention mechanism and b) a system of risk management and internal control that builds robust business operations.	This may give room for fraud as there no policies in place to manage the risks in place.
3	Lack of Policy Framework	Review of the organization's records revealed the Institute did not have a Human Resource Policy as required by Section B2 of the Human Resource Policies and Procedures Manual for Public Service, 2016. Further the Institute lacked Finance Policy, Asset Management Policy and Transport Policy to guide in decision making.	Lack of a policy framework could lead to poor decisions due to lack of clear guidelines.
4	Failure to Carry out Risk Assessment	Treasury Circular No. 3/2009 of 23 February 2009 provided a broad policy framework for developing and implementing customized Risk Management Strategies in Public Institutions. The circular required all	Failure to ensure that there is an effective risk-based internal audit system may lead to lack of a procedure in

No.	Observation	Guiding Law/Principle	Risk
		heads of Public Institutions to develop and implement a Risk Management Framework as a fundamental step towards establishing an accountable and innovative public service. The circular requires that all Public Institutions develop an Institutional Risk Management Policy Framework (IRMPPF). The circular also requires accounting officers and other to put in place structures and systems to manage their identified risks, considering their legal obligations, policy decisions, business objectives and public sector expectations.	combating any risks that arises.
5	Failure to have ICT Policy	Regulation 101 part 1 of the Public Finance Management (National Government) Regulations, 2015 requires the Accounting Officer of a national government entity to institute appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business continuity.	There is the risk of the operations coming to a complete shut down in the event of a disaster in the absence of a back-up in an off-site location.

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

Responsibilities of Management and Board of Directors

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 Institute's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the Management is aware of the intention to dissolve the Institute or to cease operations.

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

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

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

Auditor-General's Responsibilities for the Audit

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

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

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and 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 control 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 Management.
- Conclude on the appropriateness of 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 Institute's ability to continue as a going concern or 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 Institute 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 Institute to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

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

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and to 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

01 March, 2024