

REPORT OF THE AUDITOR-GENERAL ON UNIVERSITIES FUND 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 the 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 Universities Fund set out on pages 1 to 32, 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 ,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, the financial statements present fairly, in all material respects, the financial position of Universities Fund 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.

Basis for Opinion

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (ISSAIs). I am independent of the Universities Fund Management in accordance with ISSAI 130 on the 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.

Emphasis of Matter

Delay in System Implementation

The statement of financial position reflects trade payables balance of Kshs.16,067,763 as disclosed in Note 19 to the financial statements. Included in the balance is Kshs.2,070,000 in respect to payables for purchase of data analytic system. Review of documents revealed that the contract was to run for sixty (60) working days from 22 April, 2022. At the time of audit in December, 2023, the system had not been fully implemented and there was no evidence of extension of contract.

Delay in implementation of the system denies the Fund the benefits accruing from the use of the system and may result in increased implementation costs associated with the delay.

My opinion is not modified in respect of this matter

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 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 and based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness

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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

Non-Compliance with Law on Mandate of the Fund

The statement of financial performance reflects expenditure on core mandate of Kshs.12,999,570 as disclosed in Note 11 to the financial statements. As previously reported, the Fund is mandated with advising the State Department for Higher Education and Research on how to allocate and disburse funds to public universities. The Board of Trustees are expected to establish a maximum differentiated unit cost that is used as a basis for financing universities in Kenya. However, the Fund has not been allocating funds to universities as required by Section 53(2) of the Universities Act, 2012 which states that the object and purpose of the Fund shall be to provide funds for financing Universities. Instead, the State Department for University Education and Research has been directly financing all the Universities .

In the circumstance, Management is 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 comply, 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 THE 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 matter 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. Weaknesses in Accounting for Grants Transferred to Private Universities

Section 54(4) (a) of the Universities Act, 2012 requires the Fund Trustees to advise the Cabinet Secretary on matters of university education funding and related policy issues. Review of Records maintained the State Department for Higher Education and Research

indicate that during the year under review, an amount of Kshs.3,174,791,597 was transferred to private universities for Government Sponsored Students (GSS). However, the following weaknesses were noted in accounting for the funds: -

- i. Amount of Kshs.42,831,697 was transferred in respect of capitation grants for one thousand three hundred and sixty-one (1,361) students who were not placed by the Kenya Universities and College Central Placement Services (KUCCPS).
- ii. Amount of Kshs.83,425,435 was transferred in respect of capitation grants for two thousand and twenty (2,020) students who had stayed beyond the durations of course programmes they were undertaking.
- iii. The transfer included amount of Kshs.2,897,573 which related to double payments of capitation grants to sixty-six (66) students.
- iv. The transfer included amount of Kshs.17,013,702 in respect of capitation grants for three hundred and sixty-one (361) students who had already graduated.
- v. The transfer included amount of Kshs.422,826 for twelve (12) students who had deferred their studies or were on long academic leave.

In the circumstances, the effectiveness of the Fund Trustee's function of advising the Cabinet Secretary on matters of university education funding and related policy issues could not be confirmed.

2. Lack of Gazette Notices for Representatives of The Principal Secretaries

Review of records maintained by the Fund revealed that the Board of Trustees includes representatives (alternate members) of Principal Secretaries of The National Treasury and State Department for University Education and Research. However, Gazette notice to confirm the appointment of the representatives (alternate members) was not provided for audit.

In the circumstances, the validation of representation of The National Treasury and State Department for University Education and Research could not be confirmed.

The audit was conducted in accordance with ISSAIs 2315 and 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 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 the Management determines is

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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, the Management is responsible for assessing the Fund's ability to continue as a going concern, disclosing, as applicable, matters related to sustainability of service and using the applicable basis of accounting unless the Management is aware of the intention to cease operations.

The 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, the Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements comply 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 Fund's financial reporting process, reviewing the effectiveness of how the 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 overall 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 control 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 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 State Department's ability 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 Fund 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 Fund 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 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

29 January, 2024