

# **REPORT OF THE AUDITOR-GENERAL ON BOMAS OF KENYA LIMITED FOR THE YEAR ENDED 30 JUNE 2018**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of Bomas of Kenya Limited set out on pages 1 to 25, which comprise the statement of financial position as at 30 June 2018, and the statement of profit or loss and other comprehensive income, statement of changes in equity, 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 position of Bomas of Kenya Limited as at 30 June 2018, and its financial performance and its cash flows for the year then ended, in accordance with International Financial Reporting Standards (Accrual Basis) and comply with the Kenya Companies Act, 2015.

### **Basis for Qualified Opinion**

#### **1. Trade and Other Receivables**

Note 15 (a) to the financial statements reflects trade and other receivables balance of Kshs.57,201,472 which includes Kshs.39,974,796 disclosed as Little Theatre and Ushanga Kenya receivable. However, verification of records maintained at the Company revealed the following matters:

##### **a) Little Theatre Club**

Little Theatre Club, situated on a land referenced LR. No. MSA/BLOCKXL/VII/24 along Mbaraki Road in Mombasa Municipality, was declared a national monument through a Gazette Notice dated 24 October 2001.

The Ministry of Tourism, in a letter referenced MOT/3/17 dated 23 November 2016, requested Bomas of Kenya Limited to undertake funding for infrastructure improvement of Little Theatre Club at a cost not exceeding Kshs.50 million with the Ministry pledging to reimburse Bomas of Kenya Limited the same amount from Tourism Recovery Funds.

Subsequently, Bomas of Kenya Limited procured Xtreme Engineering Ltd vide Tender No. Bok/LTC/08/2017 to carry out the works at a contract sum of Kshs.48,739,204. The following anomalies were however noted;

- i. No reimbursement has been made to Bomas of Kenya Limited from the Ministry despite numerous requests and commitment of Kshs.36,208,770.
- ii. The Memorandum of Understanding between Little Theatre Club and Bomas of Kenya Limited had not been signed.
- iii. The contract had been extended twice; 1st by 12 weeks and later by 3 weeks but no letter of request for extension from contractor was availed for audit review.
- iv. The latest status report of the project dated 22 October 2018 includes a proposed variation of works amounting to Kshs.18,163,134 which equates to 37% of the original contract contrary to the provisions of the Public Procurement and Asset Disposal Act.
- v. Contracted works were not completed as at the date of the audit.

**b) Ushanga Initiative**

The Ministry of Tourism through a letter referenced MOT/CONF.1/61/01 Vol (1) B), requested Bomas of Kenya Limited to allocate space for Ushanga Kenya Centre following Presidential directive and Bomas of Kenya assented to the request. Records maintained at Company indicate that the management in a letter dated 25 May 2018 requested the Ministry of Tourism to re-imburse Kshs.3,766,026 incurred in respect of operationalization of Ushanga Kenya Initiative. The amount had not been reimbursed as at the close of the year and now disclosed under Note 15 (a) as Little Theatre and Ushanga Kenya receivable.

Consequently, failure by the Ministry to re-imburse Bomas of Kenya Limited the amounts incurred may have impacted negatively on its financial affairs.

**2. Prior year Issues**

**a) Trade and Other Receivables**

As similarly reported in previous years, trade and other receivables balance of Kshs.57,201,472 as at 30 June 2018 is net of Kshs.5,844,308 which has been outstanding for over 12 years which is fully provided for. In spite of the Public Investments Committee having recommended to the Board to regulate the debts, the matter is yet to be resolved.

As a result, it has not been possible to confirm that trade and other receivables balance of Kshs.57,201,472 in the financial statements is fairly stated.

**b) Valuation of Assets**

The statement of financial position reflects a balance of Kshs.2,310,728,998 under property, plant and equipment as at 30 June 2018. However, and as similarly reported in the previous year, the last revaluation for the assets was conducted in 1996.

Consequently, the Company has not revalued its assets in the last 22 (twenty two) years to take cognizance of the drastic change in value of its assets contrary to the International Accounting Standard No.16 which stipulates the property, plant and equipment should be revalued after every five years.

Further, the Company does not possess ownership documents for the land on which it operates. Although the original title, L.R. No.12066 (L.R. No.26510) was released by Tourism Finance Corporation to the Ministry of Tourism on 28 September 2017, the Ministry has not yet forwarded the title to Bomas of Kenya Limited. This has hindered execution of planned activities such as boundary re-alignment and valuation of land.

Consequently, it has not been possible to ascertain the accuracy and ownership of the property, plant and equipment balance of Kshs.2,310,728,998 as at 30 June 2018.

### **c) Unpaid Compensation for Compulsory Land Acquisition**

Kenya Urban Roads Authority compulsorily acquired 0.8055 hectares (2 acres) on L.R.No.12066 vide gazette notice No.11155 of 8 August 2013 for the purpose of rehabilitating and upgrading the section of Langata road lying between the Kenya Wildlife Service (KWS) head office and Bomas of Kenya Limited. The Company was to be paid Kshs.85 million as compensation for the acquisition based on valuation done by a local valuation company. However, available records indicate that the compensation has not been paid yet.

No plausible explanation has been provided for the failure to compensate the Company for the land it surrendered for public use several years ago.

### **Emphasis of Matter**

#### **Delinking from Tourism Finance Corporation**

As previously reported in 2016/2017 and as indicated under note 18 to the financial statements, the Company is fully (100%) owned by Tourism Finance Corporation (formerly Kenya Tourist Development Corporation) through some 254,000 shares of Kshs.20 each with a book value of Kshs.5,080,000.

Available records indicate that, the process to delink the Company from Tourism Finance Corporation so that it may become an independent parastatal was mooted in 1992 to enable the Company institute proper management and investment policies that would turn it to a self-sustaining organization. Following the request by the management, the Board of the then Kenya Tourist Development Corporation in its meeting of 17 June 1992 resolved to delink the Company from the Corporation.

In 1994, the Public Investment Committee and the Parliamentary Accounts Committee, with Treasury's agreement, recommended the commencement of the delinking process. In 2002, the Office of the Attorney-General had in their legal interpretation and in reference to the State Corporation Act Cap 446, also concluded that one Government parastatal cannot own another. However, in spite of these interventions, very minimal progress appears to have been made on the delinking process. As a result, the Company continues to face operational and legal challenges in meeting its obligations through the Tourism Finance Corporation.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Bomas of Kenya Limited in accordance with ISSAI 30 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.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC MONEY**

### **Conclusion**

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

### **Basis for Conclusion**

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, Except for matters discussed on Report on Effectiveness of Internal Controls, Risk Management and Governance section of my report, 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 governance, were not effective.

### **Basis for Conclusion**

#### **Lack of Risk Management Framework**

Risk Management Framework initiative is informed by good corporate governance practice and need to be proactive as opposed to reactive in managing risks. Apparently, as at the time of audit the Company had not developed and implemented a risk management framework. This is contrary to the Section 165 (1) of Public Finance Management Regulations 2015 which requires that an accounting officer of a National Government entity shall see to it that the entity develops a risk management strategy which include fraud prevention mechanism. In the circumstances, the risks pertinent to the Company may not be appropriately addressed unless risk management processes for identifying and responding to the risks are properly documented.

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. 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 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.

#### REPORT ON OTHER MATTERS PRESCRIBED BY THE KENYAN COMPANIES ACT, 2015

As required by the Companies Act, 2015 I report based on the audit, that:

- (i) 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;
- (ii) In my opinion, adequate accounting records have been kept by the Company, so far as appears from the examination of those records; and,
- (iii) The financial statements are in agreement with the accounting records and returns.

#### **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 Financial Reporting Standards (Accrual Basis) and for maintaining effective internal control 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 control.

In preparing the financial statements, management is responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intend to have the Company cease operations or have no realistic alternative but to do so.

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 money is applied in an effective manner.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how the entity 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 review is planned and performed to express a conclusion with limited assurance as to 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 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review 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 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 control 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 control.
- 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 going concern 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 Company'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 Company 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 Company 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 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 Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**24 April 2019**