

# **REPORT OF THE AUDITOR-GENERAL ON EWASO NGI'RO NORTH RIVER DEVELOPMENT AUTHORITY 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 Ewaso Ngi'ro North River Development Authority set out on pages 1 to 39, which comprise the statement of financial position as at 30 June 2018, 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 effects of the matter described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of Ewaso Ngi'ro North River Development Authority as at 30 June, 2018, 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 Ewaso Ngi'ro North River Development Authority Act, Cap 448.

### **Basis for Qualified Opinion**

#### **1.0 Bank Overdraft**

The statement of financial position reflected total liabilities of Kshs.283,243,957 which included a bank overdraft of Kshs.10,449 in respect to Kazi Kwa Vijana (KKV) current account held at Barclays Bank Isiolo branch. However, the necessary Board approval for the overdraft facility was not availed for audit review. Further, although it was explained that the overdraft arose due to bank charges, the respective bank statements showing the deductions from the account were not provided for audit review.

In the circumstances, the validity and accuracy of the overdrawn bank balance of Kshs.10,449 as at 30 June 2018 could not be ascertained.

#### **2.0 Income from the Government Grants**

Note 1 to the financial statements for the year under review reflected Kshs.254,722,674 and Kshs.78,500,000 as recurrent and development National Government grants respectively both totalling to Kshs.333,222,674. However, confirmation from the State Department of Planning and Statistics revealed that the Authority received Kshs.217,879,281 and Kshs.50,500,000 for recurrent and development National Government grants respectively both totalling to Kshs.268,379,281 resulting into unexplained and unreconciled variance of

Kshs.36,843,393 and Kshs.28,000,000 for recurrent and development National Government grants respectively both totalling to Kshs.64,843,393.

In the circumstance, it was not possible to ascertain the accuracy of the Kshs. 333,222,674 National Government grants reflected in the financial statements as at 30 June 2018.

### **3.0 Trade Creditors and Other Payables**

The statement of financial position reflected a Kshs.59,771,368 (17.4%) decrease in trade creditors and other payables from Kshs.343,004,876 as at 30 June 2017 to Kshs.283,233,508 as at 30 June 2018. However, the Authority did not maintain creditor's records including creditor's ledger and registers. In addition, records made available revealed that the Kshs.283,233,508 related to the financial year 2010/2011 and earlier years but the same had not been cleared as at 30 June 2018. Further, included in the Kshs.283,233,508 balance was audit fee of Kshs.1,160,000 for the five financial years commencing 2013/2014 to 2017-2018. However, although the audit fee was due, the same had been disclosed as a provision in the list of trade creditors and other payables. No explanation was provided as to why the Authority had taken too long to settle the trade creditors and other payables raising doubts as to whether it was able to settle its debts as and when they fell due.

In the circumstances, it was not possible to ascertain the completeness and accuracy of the trade creditors and other payables balance of Kshs.283,233,508 as at 30 June 2018.

### **4.0 Property, Plant and Equipment**

#### **4.1 Failure to Safeguard Assets**

Note 14 to the financial statements reflected a property plant and equipment balance of Kshs.283,426,548 as at 30 June 2018 which included Kshs.27,499,272 in respect to motor vehicles. However, physical verification of assets revealed that the grounded motor vehicles and machineries had missing tires and batteries, broken windows, missing fuel tank caps while four motor vehicles were parked in the open exposing them to deterioration through wear and tear. No explanation was provided as to why the Authority had not taken appropriate measures to enhance the security and reduce wear and tear.

Further, it was observed that two (2) lorries; GK A521R and GK A616R had been vandalized at the parking yard and records made available showed that this happened between April 2018 and August 2018 and consequently, two (2) watchmen were arrested and charged. The Ministry of Transport and Infrastructure's report issued vide letter referenced ISO/MTF/10/VOL.III/475 dated 23/8/2018 stated that the damage to the two (2) motor vehicles was worth Kshs.1,047,352 and Kshs.865,376 respectively all totalling to Kshs.1,912,728. However, this amount had not been recovered as at 30 June 2018. As reported in the previous year's audit report, the Authority has not put in place stringent measure to enhance security of the assets at the parking yard even after the vandalism took place.

In the circumstances, the security of the property plant and equipment balance of Kshs.283,426,548 as at 30 June, 2018 could not be ascertained.

## **4.2 Ownership Documents**

Note 14 to the financial statements reflected a property plant and equipment balance of Kshs.283,426,548 as at 30 June 2018. Allotment letters availed for audit review revealed that the Authority was allocated four parcels of land numbers; Plot B ISL/117/01/3A (1.4ha), ISL/117/2003/2 (0.35ha), ISL/117/2001/3B (2ha) and a 10-acre piece of land at Swara area along Isiolo Archers road. The Authority applied for registration of three parcels of land numbers; Plot B ISL/117/01/3A (1.4ha), ISL/117/2003/2 (0.35ha), and ISL/117/2001/3B (2ha) on 24/10/2008. However, the result of application for registration and ownership documents for the three parcels of land were not provided for audit review. Further, no explanation was provided as to why the Authority did not apply for the registration of the 10-acre piece of land at Swara area along Isiolo Archers road. In addition, review of note 14 to the financial statements showed that the four pieces of land whose values were not provided were not disclosed in these financial statements.

In the circumstances, it has not been possible to ascertain the ownership, existence, completeness and security of the property plant and equipment balance of Kshs.283,426,548 as at 30 June 2018 and that the same was fairly stated.

## **5.0 Going Concern**

The statement of financial position reflected current liabilities figure of Kshs.283,243,957 which exceeded the current assets amount of Kshs.24,398,850 resulting to a negative working capital of Kshs.258,845,106. As a result, the continued going concern of the Authority will depend on financial support from government, banker and creditors.

## **6.0 Administration Expenses**

### **6.1 Legal Fees**

Note 4 to the financial statements reflected administration expenses totalling to Kshs.25,931,908 which included legal fees totalling to Kshs.7,894,761. A review of the Authority's budget revealed that only Kshs.6,000,000 legal fee expenditure was approved during the year under review resulting in over expenditure of Kshs.1,894,761. However, the required approval from the Board covering the Kshs.1,894,761 over expenditure on legal fees was not provided for audit review.

In the circumstances, the Kshs.1,894,761 expenditure as at 30 June, 2018 was irregular.

### **6.2 Unclear Payment for Accident Damages**

Review of the availed legal cases status report revealed existence of Civil suit no. 6415 of 2016 at Milimani Commercial court Nairobi whereby a client (Plaintiff) sued Ewaso Ngi'ro

North Development Authority and an officer seeking to be compensated for accident damage caused to their vehicle by the Authority's motor vehicle KBL 650G along Nairobi-Mombasa road. The court ruled in the plaintiff's favour and subsequently an attachment order was issued on Authority's movable properties on 24 May 2018 for payment of Kshs.435,470. However, although the motor vehicle was comprehensively insured, the amount was paid by the Authority instead of the Authority's insurer. No documents were made available to show that the insurance had reimbursed the Kshs.435,470 to the Authority as at 30 June 2018.

Further, details of the accident, police abstract report, post-accident motor vehicle inspection report, insurance reports and the respective Authority's driver's statement explaining the occurrence of the accident were not availed for audit review.

In circumstances, the propriety of the Kshs.435,470 expenditure as at 30 June 2018 could not be ascertained

## **7.0 Staff Costs**

The statements of financial performance for the year under review reflected a Kshs.6,433,697 increase in staff cost from Kshs.137,291,872 as at 30 June 2017 to Kshs.143,725,569 as at 30 June 2018. However, the Authority's development funding reduced by Kshs.46,500,000 from 125,000,000 as at 30 June 2017 to Kshs.78,500,000 as at 30 June 2018 resulting in scaling down of its operations. A physical observation done during the audit of the activities being undertaken in the regional offices revealed that the officers may be idle with little or no work. No reason was given as to why the staff cost could not have been reduced in commensurate with the donor funding since a reduction of funding translated to similar reduction of activities.

In the circumstances, it was not possible to ascertain that the Authority received value for money equivalent to the Kshs.143,725,569 staff cost as at 30 June 2018.

## **8.0 Construction, Supply, Installation, Testing and Commissioning of Gums and Resin Plant - Wajir District**

A review of project file for construction, supply, installation, testing and commissioning of gums and resin plant – Wajir, showed that the project was advertised on 12 March 2010 and subsequently awarded to a Company at a contract price of Kshs.29,499,408. The letter of acceptance was signed on 12 June 2010 while the formal agreement was signed on 27 July 2010. According to the conditions of the contract, the work was to start 14 days after signing of the agreement with a contract period of 6 months. The works were to be completed as per specifications, drawings and the priced bills of quantities. Documents made available for audit showed that by mid-February 2011 Kshs.24,141,154 (82% of the contract price) had been paid to the contractor. However, a visit to the factory on 9 November 2018 revealed that the factory was complete but not operational. No explanation was provided as to why it had taken too long to operationalize the factory.

In the circumstances, it was not possible to ascertain that the Authority got value for money for the Kshs. 24,141,154 expenditure as at 30 June 2018.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Ewaso Ngi'ro North River Development Authority 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. Except for the matters described in the Basis for Qualified Opinion section, I have determined that there are no other key audit matters to communicate in my report.

## Other Matters

### 1.0 Budgetary Control and Performance

#### 1.1 Revenue

The statement of comparison of budget and actual amounts reflected income budget of Kshs.338,00,674 comprising of Kshs.204,632,674 for recurrent and Kshs.78,500,000 for development expenditure funded through government grants, fund balance brought forward of Kshs.50,000,000 and Appropriation in aid of Kshs.4,868,000 as follows;

Items	Current Year Final Budget Figures Kshs.	Actual Revenue Figures Kshs.	Variation Kshs.	Budget Absorption %
A.I.A	4,868,000	4,868,000	0	0%
Recurrent Grants	204,632,674	254,722,674	-50,090,000	-24%
Development Grants	78,500,000	78,500,00	0	0%
Balance Carried forward	50,000,000	50,000,000	0	0%
<b>Total</b>	<b>338,000,674</b>	<b>388,090, 674</b>	<b>-50,090,000</b>	<b>-15%</b>

The Authority therefore received excess grant of Kshs.50,090,000 as at 30 June 2018. However, no documents were made available to show how the Authority received the Kshs.50,090,000 authorized recurrent grants and how they were to be utilized.

## 1.2 Expenditure Analysis

The Authority, budgeted to spend Kshs.338,000,674 during the year under review. However, Kshs.323,487,560 was spent resulting in under expenditure of Kshs.14,513,114 as follows;

Items	Current Year Final Budget Figures Kshs.	Actual Expenditure Figures Kshs.	Variation Kshs.	Budget Absorption %
Staff costs	147,500,000	143,725,569	3,661,284	2%
Administration Expenses	29,800,000	25,931,908	3,868,561	13%
Board Expenses	5,960,000	4,494,434	1,636,962	27%
Development Expenses	78,500,000	81,540,381	-3,040,381	-4%
General Administration, Planning and Support Services (payments to creditors)	76,240,674	67,795,268	8,445,406	11%
Total	<b>338,000,674</b>	<b>323,487,560</b>	<b>14,513,114</b>	<b>4%</b>

The under absorption of Kshs.14,513,114 or 4%, may have negatively impacted on service delivery to the intended beneficiaries as at 30 June 2018.

Further, the statement of financial performance reflected actual expenditure of Kshs.285,347,699 while the statement of comparison of budget and actual amounts reflected Kshs.323,487,560 resulting in unexplained and unreconciled difference of Kshs.38,139,861.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### Conclusion

As required by Article 229(6) of the Constitution, based on the procedures performed, except for the matters described in the conclusion on lawfulness and effectiveness in use of public resources 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

## 1.0 Human Resource Management

### **1.1 Non Compliance to a Third Rule**

Review of the payroll records revealed that nineteen (19) employees earned net salaries which were less than a third of their basic salaries contrary to Section C (3) of the Human Resource Policies and Procedures Manual for the Public Service that require public office not to overcommit their salaries beyond two thirds of their basic salary. No explanation was provided for failure to adhere to the regulations.

In the circumstances, the Authority was in breach of the policies.

### **1.2 None adherence to Gender Principle**

The payrolls provided for audit revealed that the organization had a total staff position of one hundred and sixty-five (165). This comprised of one hundred and nineteen (119) men equivalent (to) of 72.1% and the balance of forty-six (46) are women or 27.9% of the total staff contrary to Article 27(8) of the Constitution of Kenya 2010 which states that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

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

### **1.3 Non Adherence to National Cohesion and Integration Act, 2008**

Review of the payroll provided for audit review revealed that the Authority had a total staff of one hundred and sixty-five from different ethnic communities. However, one community comprised 73 members of staff or 44.24% of the total staff contrary to the National Cohesion and Integration Commission Act Section 7(2) which states that no public establishment shall have more than one third (1/3) of its staff from the same ethnic community.

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

### **1.4 Lack of Approved Staff Establishment**

Review of the employment records revealed that the Authority did not have an approved staff establishment structure. It was therefore not clear how staff requirements for new employees was determined and regularized within the organization structure contrary to Section B.2(1) (2) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 which require every Ministry/State Department to 'prepare Human Resource Plans to support achievement of goals and objectives in their Strategic plans. The plans shall be based on comprehensive job analysis and shall be reviewed every year to address emerging issues and needs. On the basis of these Human Resource plans, Ministries/State Departments shall be required to develop annual recruitment plans'.

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

## **2.0 Board Meetings**

Review of the minutes of the Board of directors meeting for the year under review revealed that the Board met twice during the year under review contrary to Section 5 (1) of the Ewaso Ngi'ro North River Development Authority Act Cap 448 which requires the chairman to convene a meeting at least four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

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

My responsibility is to express a conclusion based on the review. The review was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the review so as to obtain limited assurance as to 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 INTERNAL CONTROLS EFFECTIVENESS, GOVERNANCE AND RISK MANAGEMENT SYSTEMS

### **Conclusion**

As required by Section 7 (1) (a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter(s) described in the Basis for qualified opinion section of my report, 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.

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.

### **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 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, risk management and governance.

In preparing the financial statements, management is responsible for assessing the Ewaso Ngi'ro North River Development Authority's ability to continue as a going concern disclosing, as applicable, matters related to going concern and using the going concern basis of



accounting unless the management either intends to liquidate the Ewaso Ngi'ro North River Development Authority, 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 Ewaso Ngi'ro Ng'iro North River Development Authority's 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 Ewaso Ngi'ro North River Development Authority's 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 of the Financial Statements**

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 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 Ewaso Ngi'ro North River Development Authority's 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 Ewaso Ngi'ro North River Development Authority'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 Ewaso Ngi'ro North River Development Authority to cease to continue as a going concern or 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 Ewaso Ngi'ro North River Development 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 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**

**25 January 2019**