REPORT OF THE AUDITOR-GENERAL ON INFORMATION COMMUNICATION TECHNOLOGY AUTHORITY FOR THE YEAR ENDED 30 JUNE 2017

REPORT ON THE FINANCIAL STATEMENTS

Disclaimer of Opinion

I have audited the accompanying financial statements of Information Communication Technology Authority set out on pages 1 to 30 which comprise the statement of financial position as at 30 June 2017, 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 do not express an opinion on the accompanying financial statements. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

In addition, as required by Article 229(6) of the Constitution, I have not been able to obtain sufficient appropriate audit evidence to confirm that public money has been applied lawfully and in an effective way.

Basis for Disclaimer of Opinion

1. Going Concern

During the year under review, the Authority recorded a loss of Kshs.2,416,530,129 thereby reducing accumulated surplus of Kshs.1,238,019,496 as at 30 June 2016 to accumulated deficit of Kshs.1,178,510,633 at 30 June 2017. Further, current liabilities of Kshs.1,648,526,597 exceed current assets of Kshs.386,104,327 resulting into a negative working capital of Kshs.1,262,422,270. This indicates that the Authority was unable to meet its financial obligations as and when they fell due. The Authority is therefore technically insolvent and the financial statements are prepared on a going concern basis on the assumption that it will continue to receive financial support from Government, bankers, creditors and donors.

2. Unsupported Grants Income

The statement of financial performance for the year ended 30 June 2017 reflects grants income figure of Kshs.21,955,964,489 which differs with the parent Ministry's figure of Kshs.22,062,190,772 by an unreconciled difference of Kshs.106,226,283.

In the circumstances, it has not been possible to confirm that grants income figure of Kshs.21,955,964,489 is fairly stated.

Other Incomes

Note 3 to the financial statements reflects interest income of Kshs.21,622,699 whose source, nature and supporting analysis was not provided for audit review.

In the circumstances, it has not been possible to confirm the validity and completeness of the financial statements for the year ended 30 June 2017.

3. Directors Costs

The Statement of financial performance as at 30 June 2017 reflects directors costs of Kshs.14,422,928 paid to board members at diverse dates whose supporting analysis indicating the payees and purpose of payment was not availed for audit review.

In the absence of the supporting documents, it has not been possible to confirm the propriety of director's costs totaling Kshs.14,422,928.

4. General Expense

4.1 Unsupported Payment of Legal Fees

Included in general expenses figure of Kshs.203,136,419 under note 8 to the financial statements is an amount of Kshs.7,875,154 in respect of legal fees paid to a law firm during the year under review and whose nature and analysis was not availed for audit review. Further, no evidence to show that the law firm was cleared by the Attorney General as required by the AG letter reference AG/con/6/6247 dated 16 April 2014 was availed for audit review.

4.2 Unsupported Travel Expenditure

Included in general expense figure of Kshs.203,136,419 under note 8 is an amount of Kshs.13,998,208 in respect of domestic and foreign travel expenses whose analysis and supporting documents were not availed for audit review.

In the circumstances, it has not been possible to confirm the regularity of the domestic and foreign travel expenditure totalling Kshs.13,998,208.

5. Unexplained expenses

Note 9 to the financial statements reflects Kshs.167,223,283 described as unexplained expenses for the year ended 30 June, 2017. Examination of the unexplained expenses revealed the following anomalies:

5.1 Unsupported/Irregular Travel Costs

Included in unexplained expenses figure of Kshs.167,223,283 under note 9 to the financial statements is an amount of Kshs.67,537,503 in respect of travel costs whose supporting information was not availed for audit review. Although the management has explained that travel cost was in respect of project inspection and field visits, no documents such as payment vouchers, work tickets and inspection reports were availed for verification.

Consequently, it has not been possible to confirm the regularity of expenditure totaling Kshs.67,537,503.

5.2 Personal Emoluments

Further, included in the unexplained expenses figure of Kshs.167,223,283 are amounts of Kshs.65,045,212 and Kshs.1,745,625 described as personal emoluments and other staff costs respectively and whose nature and supporting analysis was not availed for audit review. Available information indicates that these payments were made at diverse dates to a commercial bank under various Sacco names which could not be linked to the Authority's employees.

In the circumstances, it has not been possible to confirm the propriety of expenditure totaling Kshs.66,790,837 reported in the financial statements.

5.3 County Connectivity Project and NOFBI Project Expenses

Included in unexplained expenses figure of Kshs.167,223,283 under note 9 is an amount of Kshs.11,892,990 and Kshs.8,355,266 described as NOFBI project and county connectivity project expenses respectively whose nature and supporting analysis/documents were not availed for audit review.

In the circumstances, it has not been possible to confirm the propriety of the projects expenditure totaling Kshs.20,248,256.

5.4 Digital Literacy Program (DLP) Operations

The Digital Literacy Program (DLP) operations figure of Kshs.276,380,286 under note 11 to the financial statements and (DLP) operations amount of Kshs.13,009,628 in note 9 all totaling Kshs.289,389,914 could not be confirmed as the nature and supporting documents were not availed for audit review.

In the circumstances, it has not been possible to confirm the propriety of expenditure totaling Kshs.289,389,914 and whether it is a proper charge to public resources.

6. Special Grant Expenses

Note 11 to the financial statements reflects Kshs.19,416,330,031 described as special grants expenses. However, examination of the special grants expenses revealed the following anomalies:

6.1 Digital Literacy Programme – Devices

As disclosed in note 11 to the financial statements the Authority paid an amount of Kshs.18,377,274,086 in respect of digital literacy program – devices out of which payments totaling Kshs.15,151,069,367 was supported by nine (9) letters of credit (LCs) and whose payment vouchers were not availed for audit review.

Consequently, it has not been possible to confirm the propriety of expenditure totalling Kshs.15,151,069,367.

6.2 Digital Literacy Program Proof of Concept

Further, included in note 11 special grants expenses figure of Kshs.19,416,330,031 is an amount of Kshs.18,377,274,086 in respect of digital literacy program-devices. The amount of Kshs.18,377,274,086 also includes Kshs.603,081,668 being supply of laptops as proof of concept. However, after supply and commissioning of the laptops, the implementing committee went round to inspect the laptops and noted that all the laptops had factory defects and were supposed to be replaced by the supplier. However, as at the time of audit in March 2018, there was no evidence to show that the laptops were replaced. Consequently, it has not been possible to confirm the propriety of expenditure totalling Kshs.603,081,668.

6.3 Further, included in presidential digital talent programme balance of Kshs.143,183,776 is an amount of Kshs.1,585,583 whose supporting analysis was not availed for audit review.

6.4 Included in the shared services figure of Kshs.550,000,000 under note 11 to the financial statements is an amount of Kshs.237,861,639 whose supporting documents/analysis were not availed for audit review.

6.5 Included in note 11 to the financial statements is an amount of Kshs.28,319,396 in respect of County connectivity project expenses whose supporting documents were not availed for audit review.

Consequently, the propriety of County connectivity, Presidential Digital Talent Program and shared services expenses totaling Kshs.267,766,618 could not be confirmed.

7. Cash and Cash Equivalents

The statement of financial position cash and cash equivalents' balance of Kshs.334,641,327 as at 30 June 2017 could not be confirmed since the respective cash books and bank reconciliation statements were not availed for audit review.

In addition, and as disclosed in note 14 to the financial statements, the cash and cash equivalents' balance of Kshs.334,641,327 was arrived at after netting off Kshs.122 in respect of TCIP account. This is Contrary to the International Public Sector Accounting Standards No 1 (48) which states that assets and liabilities, and revenue and expenses shall not be offset unless required or permitted by an IPSAS. The TCIP account was overdrawn after transferring Kshs1,009,381,871 at diverse dates to the Authority's main account No.300085016 without the National Treasury approval. Further, no information on how Kshs.1,009,381,871 was utilized was availed for audit review.

In the circumstances, the Authority was in breach of the Law and it has not been possible to confirm the accuracy, validity and completeness of the cash and cash equivalents' Kshs.334,641,327.

8. Unclear TCIP Expenditure Paid at the National Treasury

Note 12 to the financial statements reflects TCIP project expenses figure of Kshs.4,336,318,489 which includes an amount of Kshs.3,133,384,811 reflected as category 1 (Telcom services). The figure of Kshs.3,133,384,811 also includes Kshs.3,003,608,152 which differs with the ministry's ledger figure of Kshs.3,109,834,436 by an unreconciled variance of Kshs.156,226,283.

In the circumstances, it has not been possible to confirm the validity and completeness of TCIP Projects expenses of Kshs.4,336,318,489.

9. Payables from Exchange Transactions

As disclosed in note 18 to the financial statements, the payables from exchange transactions' balance of Kshs.1,648,526,597 includes an amount of Kshs.1,616,064,717 in respect of supplier accounts but whose supporting documents/analysis was not availed for audit review.

In the circumstances, it has not been possible to confirm the validity and propriety of the payables from exchange transactions balance of Kshs.1,616,064,717.

10. Statement of Cash Flows

The statement of cash flows for the year ended 30 June 2017 recomputed decrease in receivables amounted to Kshs.6,188,044,650 as opposed to the reported figure of Kshs.6,251,347,051 by an unreconciled variance of Kshs.63,302,401. Further, the statement excludes a decrease of Kshs.63,302,401 in the revolving fund.

Consequently, it has not been possible to confirm the accuracy of the statement of cash flows.

11. Transparency Communication and Infrastructure Project (TCIP) Expenses

The above project was managed and implemented by Information Communication and Technology Authority (ICTA) until 31 December 2016 when it ended. The project's statement of receipts and payments for the 6 month period ended 31 December 2016 reflects Kshs.3,133,384,811 in respect of Telcom services. However, examination of Telcom services revealed that the project management awarded several contracts in six months from July to December 2016 as highlighted below:

11.1 Provision of Dedicated Hosted Hardware Infrastructure Tender No. ICTA/KTCIP/DP/03/2016-2017

On 9th December 2016, the Authority's management through direct procurement method, awarded a contract for the provision of dedicated hosted hardware infrastructure to a firm at a contract price of USD 664,667.00 equivalent to Kshs.68,460,701 for a duration of 18 months. The contract was however not included in the projects annual procurement plan and thus was not budgeted for. This is contrary to section 53 (2) of The Public Procurement and Asset Disposal Act, 2015 which states that the accounting officer shall prepare an annual procurement plan which is realistic in a format that set out in the regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process.

The direct procurement method was also contrary to section 91(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services of such magnitude. Further, no tender evaluation, inspection and acceptance committees' minutes were availed for audit review. This is a violation of the Public Procurement and Disposal Regulations. The Authority is therefore in breach of the Public Procurement and Assets Disposal Act, 2015 and regulations of the World Bank procurement procedures.

In the circumstances, it has not been possible to confirm, the regularity of expenditure totaling Kshs.68,460,701.00 on provision of dedicated hosted hardware infrastructure.

11.2 Implementation of Framework Contracts and Shared Services Platform Tender No. ICTA/TCIP/ICB/DC/2/2016

On 30 June 2016 the Authority awarded a contract for supply of 16,000 licenses under phase 1(one) to provide communication and collaboration between the various government ministries to a firm at a contract price of USD 5,974,2014.81 equivalent to Kshs.615,343.095.43. It was however noted that the contract was not included in the annual procurement plan and was therefore not budgeted. This is contrary to section 53(2) of the Public Procurement and Asset Disposal Act, 2015 which states that, an accounting officer shall prepare an annual procurement plan which is realistic in a format that set out in the regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process.

The contract was awarded through direct procurement method as opposed to open tendering as required by section 91(1) of Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services of such magnitude. In addition, no tender evaluation and inspection and acceptance committees' minutes and evidence of tender security was availed for audit review. Further, there was no evidence to show that the services were requisitioned for as required by the Public Procurement and Disposal Regulation, 2006. The Authority is therefore in breach of the law and World Bank procurement procedures.

In the circumstances, it has not been possible to confirm, the regularity of expenditure totalling Kshs.615,343,095 on the shared services platform.

11.3 Provision of Hardware Licenses-Shared Services Platform-Tender No. ICTA/TCIP/DC/1/2016

Included in the cost of Telecom Services figure of Kshs.3,133,384,811 is an amount of Kshs.834,829,652 (USD. 8,105,142.26) in respect of a contract awarded to a firm on 23 November 2016 to provide hardware licenses for the phase 1 of the shared services platform which was to provide communication and collaboration between the various government ministries. This project was however not included in the project annual procurement plan and was therefore not budgeted for in contravention of section 53(2) of the Public Procurement and Asset Disposal Act,2015.In addition, direct procurement method was used instead of open tendering method for a project of this magnitude as required by section 91(1) of the Public Procurement And Asset Disposal Act,2015.In addition, no tender evaluation and inspection and acceptance committees' minutes and tender security for the entire procurement process was availed for audit review. The authority is in breach of the law and World Bank procurement procedures.

A visit to the data center on 17 march 2018 revealed that the center is not in operation.

In the circumstances, it has not been possible to confirm, the propriety of expenditure totaling Kshs.834,829,692 on hardware licenses.

11.4 Supply of Geographical Information System and Cloud Hosting for ICTA Tender No. ICTA/TCIP/DC/03/2016-2017

Further, included in the cost of Telecom Services figure of Kshs.3,133,384,811 is an amount of Kshs.178,880,067 (USD 173,670.56) in respect of a contract awarded to a firm on 14 November 2016. The contract was not in the project's annual procurement plan and therefore was not budgeted for in contravention of section 53(2) the Public Procurement and Asset Disposal Act, 2015. Further, procurement method was used contrary to section 91(1) of Public Procurement and Asset Disposal Act, 2015 which provides that open tendering shall be the preferred procurement method for procurement of goods, works and services of such magnitude. In addition, no tender, evaluation and inspection and acceptance committees' minutes were availed for audit review. The project management is in breach of the law and World Bank procurement procedures.

In the circumstances, it has not been possible to confirm the regularity and probity of expenditures totaling Kshs.178,880,067 on supply of geographical system and cloud hosting.

11.5 Procurement of Consultancy Services-Tender No. ICTA.TCIP/RFP/28/2015 - 2016

On 15 May 2016, the project management entered into a contract with affirm for provision of consultancy services on monitoring and evaluation review of the project at a contract price of Kshs.69,795,413. Examination of the contract documents revealed that one of the objectives of the consultant was to provide recommendations to improve the design and performance of the implementation of the project which was coming to an end on 31 December 2016. It was however noted that this contract was not in the project annual procurement plan contrary to Section 53(2) of the Public Procurement and Asset Disposal Act, 2015 which requires that an accounting officer shall prepare an annual procurement plan which is realistic in a format set out in the regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process.

Consequently, it has not been possible to confirm the regularity and probity of expenditure of Kshs.69,795,413 and whether the stakeholders received value for money on procurement of the consultancy services.

11.6 Lack of Support Documentation

The project statement of receipts and payments for the 6 months' period ended 31 December 2016 reflects total receipts of Kshs.3,993,111,915 which include amounts utilized at the National Treasury for direct payments totalling Kshs.3,003,608,153. This amount was directly paid to various contractors for contracts entered into by the project management instead of remitting the funds to the project bank accounts as required under schedule 2(c) of the financing agreement. It is not clear and management has not explained why payment vouchers for the project activities were forwarded to the National Treasury for payment instead of paying directly from the project account.

Further, the amount of Kshs.3,993,111,915 includes an amount of Kshs.3,369,725 under proceeds from domestic and foreign grants whose supporting documents or analysis were not availed for audit review.

In the circumstances, it has not been possible to confirm the accuracy, validity and completeness of total receipts figure of Kshs.3,993.111.915 reflected in the project financial statements for the six (6) month period ended 31 December 2016.

11.7 Failure to Withhold or Remit VAT

During the year under review the project management deducted withholding VAT at the rate of 6% from its suppliers amounting to Kshs.202,708,840. However, no documentary evidence in form of withholding tax certificates from Kenya Revenue Authority (KRA) were availed for audit review. Failure to remit withholding tax to KRA may attract penalties which could have been avoided. Consequently, the management is in breach of the law.

11.8 Unclear Refund of PAYE

In addition, it was observed that a consultant was refunded a total amount of Kshs.1,190,326 in respects of Pay as You Earn (PAYE) deducted in prior years. No satisfactory explanation was provided as to why the consultant was refunded the amount and the source of funding. It was also not clear if the money deducted as PAYE had been remitted to KRA and if so whether a refund of the same from KRA had been received by the Authority. In the circumstances, it has not been possible to confirm the regularity of the refund of Kshs.1,190,326 made to the consultant and the project management is in breach of Tax laws.

11.9 Unsupported Expenditure

The project's statement of receipts and payments for the six months period ended 31 December 2016 reflects training cost of Kshs.156,098,775 which includes an amount of Kshs.24,862,703.00 being training expenditure for Integrated Financial Management

Systems (IFMIS) held in Arusha, Tanzania on diverse dates during the year under review. However, no information supporting this expenditure such as list of participants and the cost for each participant were availed for audit review. In the circumstances, it has not been possible to confirm the propriety of expenditure totalling Kshs.24,862,703 reflected on project financial statement for the six months period ended 31 December 2016.

11.10 Unclear Cash Transactions

Examination of the project bank account revealed that on 18 July 2016 an amount of Kshs.1,778,875,000 was withdrawn from the project bank account No.0300085005 at Citibank Upper hill, branch. Further, on 22 December 2016 Kshs.1,540,500,000 was deposited into the same bank account. No explanation has been provided for the nature and source of these funds and no evidence of any authority to use the project funds on unrelated activities was availed for audit review. In addition, on 28 April 2017 an amount of Kshs.85,904,541 was transferred from the project Citi Bank account No.0300085005 to Kenya Information Technology Authority (ICTA) Bank account No.0300085005 at Citi Bank upper Hill branch. It is not clear and management has not explained why the amount was transferred to the Authority account at the time when the project was about to come to a closure.

It was further noted that the project management opened and operated a bank account No.0300084007 designated as MOICT-TCIP at Citibank upper hill branch, without authority from the National Treasury as required by section 28(1) of the Public Finance Management Act, 2012 which states that the National Treasury shall authorize opening, operating and closing of the bank account and sub accounts for all National Government Entities.

Additionally, the project management transferred Kshs.6,892,088 to the project account on 24 April 2017 when the project was under the grace period. No evidence on how these funds were utilized was availed for audit review as this transaction was done after the closure of the project. In the circumstances, it has not been possible to confirm the accuracy, validity and completeness of the project transactions for the six (6) months period ended 31 December 2016.

12. Prior Year Unresolved Matters

12.1 Digital Village Fund Surrender Value and Accrued Interest

12.2 Revolving Fund

As previously reported and as disclosed in note 16 to the financial statements, TCIP project received a grant of Kshs.108,495,790 from World Bank/IDA for onward lending to digital village entrepreneurs to establish information hub that offer ICT services. The entrepreneurs are supposed to pay back the loan for future lending to other entrepreneurs. On 3 November 2010, the Authority entered into a contract with Family Bank to operationalize the disbursement of loans to entrepreneurs for a period of 24 months. Available records indicate that as at 30 June 2016 Family Bank had disbursed loans totaling Kshs.75,844,647 out of which Kshs.45,193,389 had fallen in arrears representing 60% of the total loans disbursed. The balance of Kshs.30,651,258 remained with the bank even though Family Bank was supposed to disburse the whole amount. In addition, a report by Deloitte and Touché who were engaged by the Authority to conduct a comprehensive monitoring and evaluation assessment on Pasha Digital Village Fund project, revealed that the Pasha projects had been facing challenges and lack efficiency, inflexibility of the loan repayment and weak relationship of the Authority with the Family bank. The project ended on 31 December 2016 and the Authority vide letter Ref No. ICTA/FIN/001 dated 26 April 2017 instructed Family Bank to reconcile the final fund balance and transfer the amount to ICTA account No.030085016 at Citibank upper Hill.

The final fund balance as at the closure of the project was Kshs.82,884,004 including interest earned over time of Kshs.19,581,602.00. The total amount of Kshs.82,884,004 was transferred to the ICTA account by Family bank as per the Authority instructions. It is however not clear and the management has not explained how the amount of Kshs.82,884,004 transferred to the Authority was utilized.

12.3 Interest on Revolving Fund

Further, note 16 to the financial statements reflects accrued interest of Kshs.19,581,602 on the revolving fund and loan arrears totaling Kshs.45,193,389. The management has however not availed detailed yearly analysis supporting accrued interest of Kshs.19,581,602 and how the loan arrears of Kshs.45,193,389 will be recovered.

In the circumstances, it has not been possible to confirm the accuracy validity and completeness of interest amounting to Kshs.19,581,602 on revolving fund for the year ended 30 June 2017 and when the loan arrears of Kshs.45,193,389 will be recovered.

12.4 Failure to use Enterprise Resource Planning System (ERP)

As reported in 2015/2016 project report, the Authority procured an Enterprise Resource Planning Software (ERP) from a firm at a cost of Kshs.62,952,452 through tender No. ICTA/KTCIP/ICB/32/2015-2016 for supply, delivery, installation and commissioning of the system. The ERP system was to integrate the activities of all departments including procurement, human resource and finance. A review of the EPR system in the month of April 2018 revealed that it was not operational. Available information also indicates that no timeline for final change over and commissioning of the new system was mentioned in the contract document. It is not clear and management has not explained why the supplier was paid full contract sum of Kshs.62,953,452 while the system is not operational contrary to the terms and conditions of the contract agreement.

In the circumstances, it has not been possible to ascertain if the stakeholders obtained value for money from the Enterprise Resource Planning Software worth Kshs.62,952,452.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

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 such 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.

In preparing the financial statements, management is responsible for assessing the 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 Authority or cease operations, or have no realistic alternative but to do so.

Management is responsible for the submission of the financial statement to Auditor General in accordance with provision of section 47 of the Public Audit Act 2015.

Those charged with governance are responsible for overseeing the Authority's financial reporting process.

Auditor-General's Responsibilities for the Audit of the Financial Statements

My responsibility is to conduct an audit of the Authority's financial statements in accordance with International Standards of Supreme Audit Institutions (ISSAIs) 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. However, because of the matters described in the Basis for Disclaimer of Opinion section of my report, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

I am independent of Information and Communications Technology 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.

FCPA Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

11 July 2018