REPORT OF THE AUDITOR-GENERAL ON THE KENYA CULTURAL CENTRE FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Kenya Cultural Centre set out on page 1 to 30, which comprise the statement of financial position as at 30 June, 2019, and the statement of financial performance, the statement of changes in net assets, the 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 Kenya Cultural Centre as at 30 June, 2019 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 Kenya Cultural Centre Order, Legal Notice No.58 of March, 2013 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1.0 Ownership of Land

The statement of financial position and as disclosed under Note 21 to the financial statements reflects respect of Property, Plant and Equipment balance of Kshs.350,425,711. However, this figure excludes a parcel of land Title No.209/14477 measuring 0.8737 hectares whose value has not been determined. The land was allocated to the Centre by the National Land Commission through letter reference number 114075/182 dated 19 May, 2016 for a term of 99 years. Further, included in this amount is Kshs.333,482,559 relating to land whose ownership documents were not provided for audit.

In view of the foregoing, the carrying value of property plant and equipment of Kshs.350,425,711 is highly understated and does not reflect a true and fair position of the Centre as at 30 June, 2019.

2.0 Unsupported Daily Subsistence Allowance

The statement of financial performance reflects employee costs amount of Kshs.16,149,557. Included in this amount is Kshs.642,600 relating to subsistence allowance paid to members of staff working away from their duty stations. However, Management did not provide supporting documents for the allowances

In the circumstances, the accuracy of the employee costs amount of Kshs.16,149,557 could not be confirmed.

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

Other Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.92,000,000 and Kshs.92,331,140 respectively resulting to an over-funding of Kshs.33,140 of the budget. Similarly, the Centre expended Kshs.80,525,685 against an approved budget of Kshs.92,331,140 resulting to an under-expenditure of Kshs.11,805,455 or 13% of the budget. The underperformance affected the planned activities and may have impacted negatively on service delivery to the stakeholders and the public.

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 Basis for conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for conclusion

1.0 Splitting of Renovation Works

The Centre split renovation works with one contractor being awarded two construction works on 3 and 7 May, 2019 at contract sums of Kshs.302,390 and Kshs.729,686 respectively. This was contrary to Section 54(1) of the Public Procurement and Asset

Disposal Act, 2015 which provides that no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed. Management did not explain or support the splitting of the tenders. Further, the Contractors awarded the tender had not been prequalified under general renovation of works.

The Centre Management was in breach of the law.

2.0 Non-Deduction of 6% Withholding Value Added Tax

Review of payments made to various supplies during the year under audit, revealed that the Centre did not effect VAT deductions on all the payments made to goods and service providers totaling to Kshs.939,846. This was contrary to Section 19A (2) of the Value Added Tax Act which provides that a person appointed under subsection (1) shall, on purchasing taxable goods or services, withhold the tax payable thereon and remit the same directly to the Commissioner at such times as the Commissioner may direct.

The Centre, being an appointed Tax Agent was in breach of the law.

3.0 Non-Deduction and Remittance of Pay As You Earn (PAYE) Tax

The Centre paid a total of Kshs.1,043,512 comprised of secondment allowance of Kshs.460,000 to two members of staff seconded from the Ministry of Sports, Culture and Heritage; and acting allowance of Kshs.583,512 to Acting Chief Executive Officer. However, the Centre Management did not subject the allowances to tax. This was contrary to Section 3(1) and 3(2)(a)(ii) of the Income Tax Act which provides that a tax to be known as income tax shall be charged for each year of income upon all the income of a person, whether resident or non-resident, which accrued in or was derived from Kenya in respect of gains or profit from any employment or services rendered.

The Management is therefore in breach of the Act.

4.0 Unsupported Payments for Renovations and Works

During the year under review, the Centre incurred expenditure of Kshs.3,452,620 on various contracted works. However, the payments were not supported by certificates of completion of works done and tender/quotation documents. Further, examination of records relating to renovation works carried out at the Centre revealed that renovation works worth Kshs.4,854,320 awarded to various suppliers were not supported by Bills of Quantities from the Ministry of Public Works as required.

In the absence of the tender documents, Bills of Quantities and certificates of completion, the validity of the renovations and works could not be confirmed It was also not possible to confirm that value for money was realized.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for conclusion

1.0 Lack of a Risk Management Policy

The Centre did not have a risk management policy. Failure to develop a risk management policy means that the Centre did not have a framework for managing risks and hence it is not possible to identify, assess and control risk. As a result, it is not possible to define the Centre's risk appetite and set the risk tolerance levels by identifying boundaries against unacceptable exposure to risk.

2.0 Disaster Recovery Strategy

The Centre lacked a Disaster Recovery Strategy and backups were not stored in a secure off-site location. A data recovery strategy plan secures the Centre's ability to provide basic services or its financial commitments, identify the financial problems and be designed to place it in a sound and sustainable financial condition as quickly as possible to avoid the risk of loss of data which would otherwise adversely affect service delivery.

3.0 Lack of Human Resource Policy

The Centre did not have a Human Resource Policy. Audit review of human resource management revealed that the Centre did not have a grading/scale structure in place. It was also noted that the members of staff had not been issued with unique employment numbers.

Consequently, there were no controls over management of the human resource function and the payroll.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, 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 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 overall governance.

In preparing the financial statements, Management is responsible for assessing the Centre's ability to continue to sustain its service disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Centre or cease operations,

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

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

Those charged with governance are responsible for overseeing the Centre'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 overall 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 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 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 Centre'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 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 Centre's ability to continue 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 Centre 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 Centre 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.

Nancy Gathungu
AUDITOR-GENERAL

Nairobi

23 August, 2021