

REPORT OF THE AUDITOR-GENERAL ON KENYA MARINE AND FISHERIES RESEARCH INSTITUTE FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Kenya Marine and Fisheries Research Institute set out on pages 1 to 25 which comprise the statement of financial position as at 30 June, 2019, 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 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 Marine and Fisheries Research Institute 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 Science, Technology and Innovation Act, 2013 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

The financial statements for the year ended 30 June, 2019 availed for audit review contained the following inaccuracies:

1.1 Statement of Cash Flows

The statement of cash flows for the year ended 30 June, 2019 reflects a decrease in trade and other payables from non-exchange transactions of Kshs.28,565,644 while the recomputed amount was Kshs.28,771,904, resulting to a variance of Kshs.206,260. Although Management explained that the variance related to outstanding medical bill written off, no documentary evidence was provided.

Consequently, the accuracy and completeness of the statement of cash flows could not be confirmed.

1.1 Statement of Financial Position – Accumulated Surplus

The statement of financial position as at 30 June, 2019 reflects an accumulated surplus of Kshs.924,581,510 while the corresponding Note 29 to the financial statements reflects an accumulated surplus of Kshs.926,931,510, resulting to a variance of Kshs.2,350,000 which had not been explained nor reconciled.

Consequently, the accuracy and completeness of the statement of financial position as at 30 June, 2019 could not be confirmed.

2. Property, Plant and Equipment

2.1 Un-surveyed Land

The Institute owns un-surveyed land located in Baringo, Sangoro and Mtwapa measuring 2.35 hectares, 0.7 hectares, and 13.4 acres respectively. However, as previously reported, the properties have not been valued or included in the reported property, plant and equipment balance of Kshs.1,734,161,109. Further, other than allotment letters for the 2 parcels of land in Baringo, ownership documents for the land parcels were not provided and Management reported that the land in Mtwapa was encroached before the transfer from the Kenya Agricultural Research Institute (KARI) was complete.

2.2 Sale of the Kongowea Land

As previously reported, the Institute on 26 January, 2007 sold the Kongowea parcel of land LR No. 6034/1/MN-Kongowea Mombasa, measuring approximately 1.998 hectares valued at Kshs.22.8 million to a private developer at a price of Kshs.15,020,000. However, the title was transferred to the purchaser before the Institute received full amount of the sale price. In addition, the lawyer who received the money on behalf of the Institute on 26 March, 2009 did not remit the same to the Institute until 2010/2011 financial year when he transmitted Kshs.13,444,923, leaving a balance of Kshs.1,575,077 and any interest accrued for the period the funds were held. Further, the selling price of Kshs.15,020,000 was below the market value of Kshs.22,800,000, resulting to a probable loss of Kshs.7,780,000. As at 30 June, 2019, the balance of Kshs.1,575,077 had not been remitted to the Institute.

No explanation was provided for the transfer of property before receiving full consideration and also why the property was sold below market value.

2.3 Loss of Deep Sea Observatory Rover

As disclosed in Note 20 to the financial statements, included in the reported property, plant and equipment balance of Kshs.1,734,161,109 are assets additions (purchases) of Kshs.386,552,403 which further includes an amount of Kshs.281,613,777 in respect of research vessels. The research vessel purchases of Kshs.281,613,777 includes an amount of Kshs.13,242,599 being the cost of deep sea observatory rover. However, the equipment was not physically verified as it was reportedly lost in deep sea and the loss reported at a local police station on 16 July, 2019. As at the time of audit in the month of January 2020, the equipment had not been traced. Further, the equipment was not insured raising doubts as to whether the Institute would be compensated for the loss.

In view of the foregoing matters, the existence, accuracy and completeness of the reported property, plant and equipment balance of Kshs.1,734,161,109 could not be confirmed as fairly stated.

3. Cash and Cash Equivalents - Stolen Cash in Hand

The statement of financial position reflects cash and cash equivalents balance of Kshs.486,455,555 which, as disclosed under Note 17 to the financial statements, includes cash in hand of Kshs.266,577. However, the cash in hand balance included Kshs.165,112 being cash held at Baringo station which differed with the nil balance reflected in the cash count certificate. Although Management explained that the money was stolen from the station's cash office, no evidence of the action taken against the officer responsible or that the incident was reported to the Police was provided for audit verification.

In the circumstances, the accuracy and existence of the reported cash in hand balance of Kshs.266,577 could not be confirmed.

4. Doubtful Receivables from Former Staff

The statement of financial position reflects Kshs.12,014,930 in respect of receivables from non-exchange transactions which, as disclosed in Note 18 to the financial statements, includes staff debtors amounting to Kshs.5,713,246. However, the staff debtors includes an amount of Kshs.1,251,116 in respect of advances to staff who have since left the Institute and could not be traced. Although the Management indicated intention to seek legal advice on how to recover the receivables, no recoveries had been made as at 30 June, 2019.

Consequently, full recoverability of the receivables from non-exchange transactions balance of Kshs.1,251,116 from former staff could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Kenya Marine and Fisheries Research Institute 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

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final revenue budget and actual revenue on comparable basis of Kshs.1,687,424,889 and Kshs.1,285,115,265 respectively resulting to an under-funding of Kshs. 402,309,624 or 24% of the budget. Similarly, the Institute had an approved expenditure budget of

Kshs.1,437,432,512 against an actual expenditure of Kshs.1,140,897,654, resulting to an overall under expenditure of Kshs.296,534,858 or 21%. The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

2. Unresolved Prior Year Audit Matters

As disclosed under the progress on follow up of auditor's recommendations section of the financial statements, several matters reported in the prior year remained unresolved as at 30 June, 2019.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit 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. PV Doria Operationalization

Records availed for audit review indicated that in the financial year 2018/2019, the Institute had a budget of Kshs.627,597,545 for research programmes, out of which a total of Kshs.116,594,000 was budgeted for PV Doria operationalization expenses. However, Kshs.37,886,770 of the funds were transferred to the State Department for Fisheries under unclear circumstances and expenditure returns from the State Department of Fisheries were not provided for audit verification.

Consequently, the propriety of the expenditure and compliance with Section 54(1) of the Public Finance Management (National Government) Regulations, 2015, which prohibits payments made out of funds earmarked for specific activities for purposes other than those activities, could not be confirmed.

2. Procurement of Research Vessels Equipment

The statement of financial position reflects property, plant and equipment balance of Kshs.1,734,161,109 which, as disclosed in Note 20 to the financial statements, includes an amount of Kshs.281,613,777 in respect of research vessels equipment bought during the year. However, a review of the procurement documents revealed the following anomalies:

2.1 Use of Wrong Tender Documents

The Institute issued International Competitive Bidding (ICB) tender document instead of National Competitive Bidding (NCB) as per the advertisement placed in a local daily

newspaper dated 16 January, 2019 and the Kenya Marine Fisheries Research Institute website, contrary to Section 58(1) of the Public Procurement and Asset Disposal Act, 2015 which requires public entities to use the standard documents from the Public Procurement Regulatory Authority.

2.2 Omission of Confidential Business Questionnaire Form

The Confidential Business Questionnaire Form as per the standard documents issued by the Public Procurement Regulatory Authority was missing in the tender documents. Instead, the Management used a form titled 'bidders' information form' which does not provide information on the nature of business, registration certificate, value of business, names of directors and their nationalities.

2.3 Excess Payments on Inland Transportation

Instructions to bidders Clause 15.7(Price Schedule) included cost of inland transportation and other services required in the purchaser's country to convey the goods to their final destination. However, records availed for audit review indicated that the Institute incurred unexplained additional expenditure of Kshs.2,433,627 on inland transportation and other services. Consequently, the validity of expenditure of Kshs.2,433,627 on inland transportation could not be confirmed.

In view of the foregoing matters, the Management was in breach of the Law.

3. Officers Serving in an Acting Capacity for a Long Time

Section C.14(1) of Public Service Commission Human Resource Policies and Procedures Manual for the Public Service, 2016 prohibits an officer from acting in a position for more than 6 (six) months. However, as previously reported, four staff had been serving in acting capacities for a period beyond the stipulated six (6) months as detailed below:

S/No.	Designation	Acting Position	Acting Period
1.	Senior ICT Officer	Acting Chief ICT officer	From 01 December, 2013
2.	Principal Accountant	Acting Chief Accountant	From 01 October, 2010
3.	Personal Secretary I	Acting Executive Secretary	From 01 April, 2015
4.	Principal Research Officer	Acting Deputy Director-Aquaculture	From 01 January, 2018

It was not clear why the positions were not filled.

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. Lack of Internal Audit Charter

The Institute did not have an Internal Audit Charter, as required under Regulation 162 (2) of the Public Finance Management (National Government) Regulations, 2015 which provides that the organizational structure of the internal audit unit facilitates the entity to accomplish its internal audit responsibilities with sufficient authority to promote independence and to ensure broad audit coverage, adequate consideration of internal audit reports, appropriate action to be taken on internal audit recommendations; and to be independent of the programs, operations and activities he or she audits to ensure the impartiality and credibility of the internal audit work undertaken.

In absence of the Internal Audit Charter, the credibility of internal audit work could not be confirmed.

2. Lack of Board Charter

Section 1.11 of the Mwongozo Code of Governance for State Corporations requires the Board to develop a charter to define the role, responsibilities and functions of the Board in the governance of the organizations. However, the Institute's Board of Management had not established a Board Charter.

In absence of a Board Charter, the effectiveness of the Board may have been compromised.

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 the Board

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 Institute's ability to continue to sustain its services, 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 Institute or to cease its 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 way.

The Board of Management is responsible for overseeing the Institute's financial reporting process, reviewing the effectiveness of how the Institute monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and 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 Institute'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 Institute 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 Institute 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

20 August, 2021