

# **REPORT OF THE AUDITOR GENERAL ON KENYA SCHOOL OF LAW FOR THE YEAR ENDED 30 JUNE, 2019**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Disclaimer of Opinion**

I have audited the accompanying financial statements of Kenya School of Law set out on pages 35 to 64 which comprise the statement of financial position as at 30 June, 2019, and the statement of financial performance, statement of changes in net assets, statement of cash flows and the 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.

### **Basis for Disclaimer of Opinion**

#### **1.0 Inaccuracies in the Financial Statements**

The statement of comparison of budget and actual amounts reflects actual total income of Kshs.584,092,040 whereas the statement of financial performance reflects a total of Kshs.585,181,678 resulting in an unexplained difference of Kshs.1,089,638. Further, the statement of cashflows reflects a decrease in payables of Kshs.23,086,618 which differs with the movement in the statement of financial position of Kshs.26,973,907 by Kshs.3,887,289.

In addition, the statement of financial performance reflects a comparative prior year deficit amount of Kshs.29,986,843 while the statement of changes in net assets reflects a deficit of Kshs.31,899,107 resulting in an unexplained difference of Kshs.1,912,264.

In the circumstances, the accuracy of the financial statements for the year ended 30 June, 2019 could not be confirmed.

#### **2.0 Prior Year Adjustment**

The statement of changes in net assets reflects a prior year adjustment of Kshs.14,411,824 for which no additional disclosure has been provided. This is contrary to Paragraph 54(a) and (b) of International Public Sector Accounting Standard (IPSAS) No.3 - Accounting Policies, Changes in Accounting Estimates and Errors which requires an entity to disclose the nature of prior period errors and the amount of correction for each financial statements line item affected. No explanation has been provided for the omission.

#### **3.0 Opening Balances**

The statement of financial performance and statement of financial position reflects comparative amounts for thirteen (13) items whose balances differ with the audited financial statements for the year ended 30 June, 2018 as detailed below;

<b>Item Description</b>	<b>2018/2019 Comparative Balance (Kshs.)</b>	<b>2017/2018 Audited Balance (Kshs.)</b>	<b>Difference (Kshs.)</b>
School Fees Income	281,085,887	281,101,887	(16,000)
Employees Costs	223,862,164	228,874,879	(5,012,715)
Administrative Costs	326,480,525	224,842,822	101,637,703
Operational Costs	57,240,099	50,616,428	6,623,671
Continuing Legal Education Expenses	7,866,412	7,080,801	785,611
Hospitality Costs	32,367,612	27,987,377	4,380,235
Consumable Stocks	5,392,981	5,310,595	82,386
Accounts Receivables and Prepayments	110,795,167	111,429,925	(634,758)
Cash and Bank Balances	105,832,396	103,853,377	1,979,019
Property, Plant and Equipment	2,245,773,927	2,256,272,884	(10,498,957)
Payables and Accruals	85,242,233	95,488,324	(10,246,091)
Other Current Liabilities	145,025,574	146,970,822	(1,945,248)
Deficit for the Period	(29,986,843)	(33,105,866)	3,119,023

No supporting journal entries and explanations have been provided for these adjustments.

In the circumstances, the accuracy of the opening balances could not be confirmed for the year ended 30 June, 2019.

#### **4.0 Cash and Bank Balance**

The statement of financial position reflects a cash and cash equivalents balance of Kshs.270,778,022. However, the following anomalies were noted:

##### **4.1 Uncleared Reconciling Cheques**

The bank statements reflected deposits of Kshs.6,873,202 which had not been captured in the cashbook. Further, outstanding cheques amounting to Kshs.433,316 had gone stale and had not been replaced or written back to the cashbook. In addition, cheque receipts of Kshs.228,200 had not been cleared as at February, 2020.

##### **4.2 Variances Between Balances in the Financial Statements and the Cashbooks**

Variances were noted between the balances reflected in the financial statements and those in the cashbooks for three (3) bank accounts as indicated below;

<b>Bank Account</b>	<b>Financial Statements Balance (Kshs.)</b>	<b>Cashbook Balance (Kshs.)</b>	<b>Variance (Kshs.)</b>
2022099224 - Barclays Bank of Kenya	12,070,831	14,784,611	(2,713,780)
2022029110 - Barclays Bank of Kenya	56,697,826	57,778,206	(1,080,380)
01129706350500 - Cooperative Bank of Kenya	192,850,684	193,058,884	(208,200)

No explanation or reconciliation was provided for the variances.

In the circumstances, the validity and accuracy of cash and cash equivalents balance of Kshs.270,778,022 as at 30 June, 2019 could not be confirmed.

## **5.0 Accounts Receivables and Prepayments**

The statement of financial position reflects a balance of Kshs.120,331,597 for accounts receivables and prepayments. As disclosed in Note 16 to the financial statements, the balance was net of a provision for doubtful debts of Kshs.4,703,715. However, the provision was not supported and the policy on provision for bad and doubtful debts was not provided.

In the circumstances, it has not been possible to confirm the accuracy and completeness of the accounts receivables and prepayments balance of Kshs.120,331,597.

## **6.0 Unremitted Statutory Deductions and Taxes**

The statement of financial position reflects other current liabilities balance of Kshs.173,871,606 which, as disclosed in Note 21 to the financial statements included Kshs.2,297,342, Kshs.2,830,361 and Kshs.13,901,413 relating to Pay As You Earn (PAYE) deductions, withholding tax and Value Added Tax (VAT) respectively, which had not been remitted to the Kenya Revenue Authority as at 30 June, 2019. This is in contravention of Sections 37 and 130 of the Income Tax Act which require PAYE deducted from employees' earnings to be remitted by the tenth day of the month following the deduction and withholding tax and VAT to be remitted by the twentieth day of the month following the charge. In addition, failure to remit statutory deductions on a timely basis may attract interest and penalties.

Consequently, it has not been possible to confirm that the other current liabilities balance of Kshs.173,871,606 is fairly stated.

## **7.0 Property, Plant and Equipment**

The statement of financial position reflects a balance of Kshs.2,187,463,156 for property, plant and equipment. However, the following matters were observed:

### **7.1 Lack of Ownership Documents**

As previously reported, the leasehold land within which the Institution is located valued at Kshs.710,000,000 was not registered under the Kenya School of Law. The ownership documents were in the name of Agricultural Finance Corporation (AFC). In the circumstances, the interests of the School have not been properly safeguarded.

## **7.2 Property Allocated to Third Parties – Matter in Court**

As previously reported, evidence available indicates that Plot No. LR 209/6238 measuring 0.3890 hectares along Bishops Road-Kilimani area has an institutional house (No.HG/613) which was reserved by the Government as the official residence of the School Principal. However, on 3 November 1997, a grant of lease was purportedly issued to a firm, whose Directors include a former Principal of the School, by the Commissioner of Lands, vide allotment Ref. No.34250. Thereafter, a title deed was issued and registered as Grant No. LR.74856. The property was later sold to another firm on 12 June, 2002 at a consideration of Kshs.50,000,000 who then charged it to a bank.

The matter was reported to the then Kenya Anti-Corruption Commission which on 26 January, 2007 made an application for a High Court Order pursuant to Section 56 of the Anti-Corruption and Economic Crimes Act, 2003. The Court ordered the preservation of the property and restrained the respondents from selling, disposing off, wasting or in any other way dealing with the property for six (6) months. This matter has been pending before the High Court in Nairobi under Miscellaneous Application No.42 of 2007 awaiting determination.

In the circumstances, the accuracy, completeness and ownership of the reported balance for property, plant and equipment could not be confirmed.

## **8.0 Irregular Payment of Meal Allowances**

The statement of financial performance reflects administrative costs of Kshs.198,691,675 which, as disclosed in Note 11 to the financial statements, included an amount of Kshs.4,886,917 for training and development. However, the expenditure included an amount of Kshs.356,825 being meal allowances paid to staff for attending an ERP training at the Centre for Mathematics, Science and Technology Education in Africa (CEMASTEA) and the Cooperative University despite the fact that lunch was already paid for. This contravened Section H.18(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016, which provides that where training award for a course organized under bilateral or multilateral arrangements caters for only tuition and accommodation but does not include meals, out of pocket and stipend, the officer will be eligible for 25% of the living allowance applicable to the designated country.

Management was, therefore, in breach of the Human Resource Policies and Procedures Manual for the Public Service.

## **9.0 Non-Compliance with the Public Procurement and Asset Disposal Act, 2015**

During the year under review, the School of Law procured cleaning services at a monthly rate of Kshs.340,570 translating to Kshs.4,086,840 for the year and conference facilities for Kshs.2,199,084 through requests for quotations method of procurement although the value of both procurements exceeded the threshold of Kshs.1,000,000 for use of the method. This is contrary to Section 45(3)(b) of the Public Procurement and Asset Disposal Act, 2015 which provides that all procurement processes should be undertaken by a procuring entity as per the threshold matrix prescribed.

Management was therefore in breach of the law.

## **10.0 Employee Costs**

Section C.14(1) of the Human Resource Policies and Procedures Manual for the Public Service, 2016 provides that acting allowance will not be payable to an officer for more than six (6) months. However, the reported employee costs of Kshs.209,460,918 included an expenditure of Kshs.1,197,575 being acting allowance paid to five (5) employees who had served on acting appointments for more than six (6) months.

Management was, therefore, in breach of the Human Resource Policies and Procedures Manual for the Public Service.

## **11.0 Delayed Construction Project of an Ultra-Modern Library and Moot Courts**

As previously reported, the contract for the construction of an Ultra-Modern Library and Moot Courts was awarded to a contractor at a cost of Kshs.488,704,449 and commenced on 24 June, 2013. The construction period was three years and the Project was expected to be completed by September 2016. As at 30 June, 2019, Kshs.141,252,215 had been paid to the contractor. However, although construction was still in progress as at the time of the audit in December, 2019, Management did not provide a report on the progress of the works and the expected completion date.

Consequently, it was not possible to confirm that the School obtained value for money from the expenditure of Kshs.141,252,215 incurred on the Project as at 30 June, 2019.

## **12.0 Unresolved Prior Year Matters**

Various prior year audit issues remained unresolved as at 30 June, 2019. Management has not provided reasons for the delay in resolving the prior year audit issues. Further, the unresolved prior year issues are not disclosed under the progress on follow up of auditor's recommendations section of the financial statements as required by the Public Sector Accounting Standards Board.

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

### **Conclusion**

I do not express a conclusion on the lawfulness and effectiveness in the use of public resources as required by Article 229(6) of the Constitution. 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 my audit conclusion.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Conclusion**

I do not express a conclusion on the effectiveness of internal controls, risk management and governance as required by Section 7(1)(a) of the Public Audit Act, 2015. 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 my audit 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 Financial Reporting Standards (Accrual Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the ability of the Kenya School of Law to continue as a going concern disclosing, as applicable, matters related to going concern and using the applicable basis of accounting unless Management is aware of the intention to terminate the School 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.

Those charged with governance are responsible for overseeing the financial reporting process, reviewing the effectiveness of how the Kenya School of Law 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**

My responsibility is to conduct an audit of the 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.

In addition, my responsibility is 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. I also consider internal control, risk management and governance processes and systems in order to give an assurance on the effectiveness of internal controls, risk management and governance 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. 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 conclusion on lawfulness and effectiveness in use of public resources, and on effectiveness of internal controls, risk management and governance.

I am independent of the Kenya School of Law 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.



**Nancy Gathungu**  
**AUDITOR-GENERAL**

**Nairobi**

**24 August, 2021**