

REPORT OF THE AUDITOR-GENERAL ON KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC) FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Kenyatta International Convention Centre set out on pages 1 to 22, which comprise the statement of financial position as at 30 June, 2019, and the statement of comprehensive income, statement of changes in equity, 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 Kenyatta International Convention Centre as at 30 June, 2019, and of its financial performance and its cash flows for the year then ended, in accordance with International Financial Reporting Standards (IFRS) and comply with the Public Finance Management Act, 2012 and the Tourism Act, No.28 of 2011.

Basis for Qualified Opinion

1. Unsupported Prior Year Adjustment

The statement of changes in equity reflects a debit balance of Kshs.354,779,836 recorded as a prior a year adjustment whose details were not disclosed. In the absence of the proper details and the related supporting documentation, the authenticity of Kshs.354,779,836 could not be confirmed.

2. Unsupported Trade and Other Payables

The statement of financial position reflects a balance of Kshs.871,172,899 under trade and other payables. The supporting schedules to the balance did not have adequate supporting information including payment voucher numbers as well as dates.

In addition, supporting documents availed for audit during the current year 2018/2019 revealed that vendors amounting to Kshs.55,784,840 relating to WTO projects were not provided for in the financial statements yet the Centre is yet to resolve issues relating to WTO expenditure.

In absence off such critical information, the validity and accuracy of the trade and other payables balance of Kshs.871,172,899 as at 30 June, 2019 could not be ascertained.

3. Trade and Other Receivables

3.1 Long Outstanding Debts

As previously reported, the statement of financial position reflects a balance of Kshs.667,521,953 under trade and other receivables which includes an amount of Kshs.623,348,470, which has been outstanding for over three (3) years and the bulk of which is owed by various Government Ministries and Departments. In particular, the

National Assembly owes an amount of Kshs.47,311,344 which has been outstanding for a considerably long period of time.

Further, a balance of Kshs.60,646,813 of the debts were for the defunct Government Ministries/Departments. However, an inquiry and comparison with financial statements of the reported debtors showed that the said debts were not recognized as payables or pending bills in those institutions. In addition, a substantial portion of the Corporations' assets relate to accounts receivables that mostly arise when credit sales are extended to the conference clients, Government and private tenants and leased parking. The Management efforts to recover these debts have not been fruitful.

3.2 Failure to Honour Tenancy Agreement

Available information indicates that the 18th floor of Kenyatta International Convention Centre was occupied by the private secretary to the third President for the period; 1 July, 2013 to 1 July, 2016 accruing a total debt of Kshs.36,096,972 though no lease agreement was availed for audit review. Recoverability of the debts remain doubtful despite there being a provision for bad and doubtful debts of Kshs.23,618,851, which appears inadequate

In the circumstances, the fair statement of the trade and other receivables balance of Kshs.667,521,953 as at 30 June, 2019 could not be confirmed

4. Property, Plant and Equipment

4.1 Land

As previously reported, the property, plant and equipment balance of Kshs.4,044,860,041 as at 30 June, 2019 includes the value of land estimated at Kshs.1billion. However, the latter balance of Kshs.1billion excludes land commonly referred to as COMESA parking area and Courtyard on which the first Kenya President's monument stands. Further, the land on which the Garden Square Restaurant stands is under dispute between the Corporation and the County Government of Nairobi. However, a letter from the Chief-of-Staff and Head of Public Service to the Cabinet Secretary, Ministry of Lands, Housing and Urban Development clarified that the land in dispute has since been gazetted as a national monument and a part of the Corporation.

In addition, the Cabinet Secretary was directed to urgently issue ownership documents to the Corporation. The above notwithstanding, Management has not availed any proof that such title documents have been acquired. It has also been noted that the land on which the Kenyatta International Convention Centre building stands is not registered in the name of the Corporation although its value has been included in the financial statements.

4.2 Management of Assets

The statement of financial position reflects a balance of Kshs.4,044,860,041 under property, plant and equipment as at 30 June, 2019. Valuation of assets was conducted in the year under review. However, the valuation figures as detailed in the valuation report / assets register have not been incorporated in the financial statements. Further, the amounts reflected in the financial statements for four (4) categories of assets differ with the amounts in the valuation report by Kshs.1,280,037,322 as detailed below;

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	Item	Figure as per Valuation Report (Kshs.)	Figure as per Financial Statements (Kshs.)	Variance (Kshs.)
1.	Freehold Land	2,296,000,000	1,000,000,000	1,296,000,000
2.	Buildings	1,664,800,000	1,662,052,000	2,748,000
3.	Furniture	21,464,270	81,260,000	(59,795,730)
4.	Office Equipment	55,250,052	14,165,000	41,085,052
	Total	4,037,514,322	2,757,477,000	1,280,037,322

In addition, the valuer who had been paid a total of Kshs.7.6million did not give a detailed report on how the valuation was undertaken and why the valuation particularly the freehold land and buildings seem to be undervalued compared to the current market values.

4.3 Registration of Motor Vehicles

As previously reported, the Corporation bought three (3) motor vehicles in the year 2016/2017 for Kshs.20,875,000. However, a scrutiny of the logbooks showed that the three (3) vehicles were registered in the name of Kenyatta International Conference Centre Management Limited and not in the name of the Corporation. Although it was explained that the problem arose as a result of Personal Identification Number (PIN) mix up at the Kenya Revenue Authority, the issue has not been resolved with a view of having the logbooks issued in the name of Kenyatta International Convention Centre.

In view of the foregoing, it has not been possible to confirm that property, plant and equipment balance of Kshs.4,044,860,041 as at 30 June, 2019 is fairly stated.

5. Tax Payable

As disclosed in Note 17 to the financial statements, the statement of financial position reflects a balance of Kshs.450,584,782 under non-current liabilities tax payable. The balance includes a tax brought forward of Kshs.22,992,595, reconciled tax by the Kenya Revenue Authority demand letter of Kshs.413,534,596 and tax due in 2018/2019 of Kshs.14,057,591. However, the amounts were not broken down and tax return documents were not availed for audit review.

Failure to pay tax when due could attract penalties and interest. There is also a likelihood of the Corporation's assets been attached.

6. Pending Bills

The Centre had pending bills totalling to Kshs.928,927,659 as at 30 June, 2019 as per the schedule/pending bills list submitted for audit. Out of the balance of Kshs.928,927,659, an amount of Kshs.430,929,299 recognized as potential liability for World Trade Organization (WTO) and a further provision of Kshs.255,395,308 on WTO all totalling to Kshs.686,324,607 has been disclosed in the financial statements, leaving an amount of Kshs.242,603,052 undisclosed in the financial statements.

Further, the pending bills were not approved by the Pending Bills Committee. The Corporation has further disclosed in the pending bills schedule a figure of Kshs.5,728,504 as provisions for future expenses. The nature of such future expenses was not indicated nor explained and it was not clear how provisions are being recognized as pending bills. Additionally, it is not clear how WTO expenditures credit of Kshs.686,324,607 became a pending bill yet this had its own allocation.

Consequently, the accuracy and authenticity of the pending bills of Kshs.928,927,659 as at 30 June, 2019 could not be ascertained.

7. Staff Receivables

The statement of financial position reflects a balance of Kshs.6,541,134 under staff receivables - car loans and advances. However, and as previously reported, some of the staff resigned or had their services terminated but did not clear debts owed to the Corporation. Further, the outstanding staff receivables balance does not include an amount of Kshs.952,722 due from two (2) staff members who had exited employment without any evidence of having cleared their loans.

Consequently, it has not been possible to confirm the accuracy and collectability of the ex-staff receivables balance of Kshs.6,541,134 as at 30 June, 2019.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Kenyatta International Convention Centre Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAIs 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 judgement, 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. Under Collection of Revenue

During the year under review, the Centre collected local revenue amounting to Kshs.1,027,602,875 compared to the budgeted amount of Kshs.1,347,718,951 resulting to a shortfall of Kshs.320,116,076 or 24% of budgeted amounts.

2. Failure to Implement IFMIS in Procurement

The Corporation has failed to implement IFMIS System and or to link its Enterprise Resource Planning (ERP) with the IFMIS system and is therefore, not conforming to the Presidential directive of August, 2014 and a repeated call in 2015, which required that all State Corporations employ full use of e-procurement. This is in addition to The National Treasury Circular No.19/15, dated December 18th August, 2015, Ref.DGIPE/A/1/10 Category 4-Other Projects which states that "State Corporations are required to ensure that capital projects are captured in the Plan-to-Budget in IFMIS and e-ProMIS as appropriate.

3. Flawed Procurement Process-World Trade Organization (WTO) Conference

As previously reported, during the 10th WTO Ministerial Conference held between 13th-19th December, 2015 at the Kenyatta International Convention Centre, the Corporation made tender awards for goods and services and works to various firms. A review of the procurement processes however revealed that it was executed in total

disregard of the then Public Procurement and Disposal Act, 2005 and Public Procurement and Disposal Regulations, 2006 as enumerated hereunder: -

- (i) Key procurement records including minutes of Tender Committee meetings that deliberated on some of the procurements, contract documents and local purchase orders/local service orders were not provided for audit verification. No supervision reports and completion certificates were provided for the completed works which were carried out to ascertain whether the works were carried out as per the specifications.
- (ii) The Tender Committee was not procedurally constituted in compliance with the Second Schedule of the then Public Procurement and Disposal Regulations, 2006 and in most cases was not involved in the procurement process for projects which were directly procured. The Corporation made several procurements for goods and services worth Kshs.70,823,765 without going through competitive bidding as required by the Public Procurement laws and regulations. Further, there was no evidence of any report submitted to the Public Procurement Oversight Authority for direct procurements contrary to Section 62(3) of the then Public Procurement and Disposal Regulations, 2006 which stipulated that any direct procurement of value exceeding Kshs.500,000 has to be reported to the Authority within 14 days after notification of award.
- (iii) Seventeen (17) projects were implemented during the period. However, only five (5) projects had invitation for bids to participate in tenders through the restricted tendering method. Out of the five, only two (2) were considered by the Tender Committee. Available information indicated that the awards for fifteen (15) tenders was done singly by the then Chief Executive Officer through single sourcing while making references to non-existent bids for tenders by fictitious companies in total disregard of the Tender Committee. The awards to the fifteen (15) different companies was done on diverse dates between 13 July, 2015 and 30 September, 2015 for a total sum of Kshs.1,432,333,345.
- (iv) Available information further revealed that six (6) of the above tenders were cancelled due to delay in release of funds. In some instances, award letters were terminated but the signed contracts were not terminated hence exposing the Corporation to litigations and resultant costs. Only five of the fifteen companies had signed contracts, which amounted to Kshs.894,976,341.
- (v) Further examination of records revealed that a local company, had signed a contract worth Kshs.64,976,341 even though it had not been issued with an award letter for a tender. Another company undertook some partial works and submitted a claim of Kshs.9,946,420 despite the fact that there was no letter of award of tender, no signed contract and the company was not registered with the Registrar of Companies.
- (vi) The Board of Directors was also directly involved in the flawed procurement process whereby they participated in the revision of cost of the design, supply and installation of computerized conference management system tender. Although the Board had constituted an ad-hoc committee to oversee the implementation of the WTO projects, no report was prepared for consideration by the full board despite the many meetings held. Thus, the Committee may not have carried out its oversight role as expected given the haphazard manner in which the projects were initiated and implemented or not implemented at all.

- (vii) The Corporation has so far received claims amounting to Kshs.701,031,000 from various suppliers for the works which have not been paid for due to lack of or inadequate documentation.
- (viii) In addition, supporting documents availed for audit review revealed that vendors amounting to Kshs.55,784,840 relating to WTO projects were not provided for in the financial statements for 2017/2018 yet the Centre is yet to resolve issues relating to WTO expenditure.
- (ix) Further review of the letter from the Office of the Attorney General and Department of Justice dated 8 March, 2018, Reference AG/CIV/MLG/20/18 addressed to the Chief Executive Officer-KICC in relation to an arbitration between Dimensions Data Solutions, one of the firms contracted to provide services during the WTO conference and Kenyatta International Conference Centre, found the matter to be lacking in merit and ignored the issue raised by the Chief Executive Officer, KICC touching on the illegality, validity and irregularity in the award and possibility of a collusion during procurement award process.
- (x) It is important to note that the Board did approve for restricted tendering which was not adhered to and instead the Management chose single sourcing which was not approved thus rendering the whole process a violation of the provision Section 73 of the then Public Procurement and Disposal Act, 2005 on restrictive tendering.
- (xi) The arbitrator did not confirm whether such firm(s) were in the list of prequalified suppliers.
- (xii) They did not also confirm whether the process was legal and enforceable.
- (xiii) The interests of the taxpayers was not taken into consideration.
- (xiv) The arbitrator further stated “the procurement process was in the purview of the procuring entity (KICC) and it was up to the Respondent (Dimension Data) to adhere to the provisions of the Act and not the claimant’s responsibility to investigate whether the process was in line with the then Public Procurement and Disposal Act, 2005. This sets a bad precedent which may not be sustainable as the law is binding to both the contractor/vendor and the procuring entity.

From the foregoing, the Corporation was clearly in breach of the Public Procurement and Disposal Act, 2005 and Regulations, 2006 and may not have received value for money from WTO projects due to the flawed procurement process.

4. Grants from the Ministry of Tourism (2015/2016)

As previously reported, a review of the documents and correspondence between the Ministry of Tourism and the Corporation revealed the following;

- (i) In a letter Ref. MOT/1/97 dated 24 February, 2016 from the Principal Secretary, Ministry of Tourism and addressed to Ag. Managing Director, the Ministry requested transfer of Kshs.480,000,000 meant for the World Trade Organization Conference from KICC to the Ministry. It is not clear why the Ministry had to

request the transfer of the same money transferred to the Corporation for the furtherance of the conference activities.

- (ii) Further, details of the actual amount received from the conferences, total expenditure incurred and bank balance were not provided for audit review.

In view of the above, the transactions relating to transfer of Kshs.480,000,000 and the related expenditure at the Ministry for the year 2015/2016 could not be confirmed.

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. Retreat to Mauritius

It was observed that some Board members and staff of the Corporation went to Mauritius to attend the World Travel Award. However, the following anomalies were noted: -

- a) Through payment voucher No.721 dated 20 May, 2019, the Corporation made irregular payment of USD 14,816 equivalent of Kshs.1,506,639 to an accountant and it was noted that the said person is not a Board Member nor was he among the staff nominated to represent the Corporation in the award ceremony.
- b) It was also noted that the Board members were paid their per diem in cash instead of making payments through their respective bank accounts and no evidence was availed to show that indeed the members acknowledged the receipts of the money.
- c) It was further, noted that all the per diem requisition forms supporting the payment voucher were not signed and dated by the head of the relevant department but were only signed by the Financial Controller and Chief Executive Officer and no explanation was provided as to why the user department did not approve the per diem.
- d) No invitation from the host supporting the payment voucher was provided for audit review.
- e) Further, it was noted that twelve (12) members of staff and eight (8) Board members were paid per diem allowances totalling Kshs.6,805,650 to represent the Corporation to attend the award ceremony in Mauritius. It is not clear why the Corporation incurred such high expenses in sending a huge delegation of staff members in a single award ceremony when less members could have represented the Corporation adequately and reduce such expenses.

The Management therefore breached Section 68(1) of the Public Finance Management Act, 2012 that requires an Accounting Officer for a national government

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entity to ensure that resources are used in a lawful and authorised manner which is also effective, efficient, economical and transparent.

2. Staff Imprests

The statement of financial position reflects a balance of Kshs.5,262,245 in respect of staff imprests as at 30 June, 2019. However, the imprests register was not updated to reflect the due dates making it difficult to establish how long the imprests had been outstanding and whether the Corporation is in conformity with Section 93(5) of the Public Finance Management (National Government) Regulations, 2015 which requires a holder of a temporary imprest to account or surrender the imprest within 7 working days after returning to duty station. In some instances, the Corporation paid imprests to officers who were already holding multiple imprests at the same time.

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, 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.

Basis for Conclusion

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 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 Financial Reporting Standards (IFRS) 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 controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing Centre's ability to sustain 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 liquidate the Centre or to 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 way.

Those charged with governance are responsible for overseeing the Centre'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

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 the audit of compliance, I consider internal control in order to give an assurance on 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 the 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 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

21 June, 2021