

# **REPORT OF THE AUDITOR-GENERAL ON NYAYO TEA ZONES DEVELOPMENT CORPORATION FOR THE YEAR ENDED 30 JUNE 2018**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of Nyayo Tea Zones Development Corporation set out on pages 1 to 17, which comprise the consolidated statement of financial position as at 30 June 2018, and the consolidated statement of profit and loss and other comprehensive income, consolidated statement of changes in the general fund, statement of cash flows and statement of comparative 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 the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the consolidated financial position of Nyayo Tea Zones Development Corporation as at 30 June, 2018, and of its consolidated financial performance and its cash flows for the year then ended, in accordance with International Financial Reporting Standards and comply with the Nyayo Tea Zones Development Corporation Order, 2002 and the State Corporations Act, Cap 446 of the Laws of Kenya.

### **Basis for Qualified Opinion**

#### **1. Property, Plant and Equipment**

**1.1.** The consolidated statement of financial position and as disclosed under Note 8 to the financial statements reflects a balance of Kshs.1,606,249,281 in respect to property, plant and equipment as at 30 June 2018. Included in this figure is Kshs.348,635,990 relating to land and buildings which excludes the undetermined value of land under tea and growing zones due to lack of ownership documents. However, Section 3 (1) (b) and (c ) of the Nyayo Tea Zones Development Corporation Order,2002 states that, "After the creation of the tea and fuel wood growing zones, the land shall be vested and become the property of the Corporation for the purposes of the Order; and any tea and fuel wood growing areas created and developed in gazetted forests and trust lands forests by the Government prior to the making of this Order, shall be deemed to have been created by the Corporation for the purposes of this Order".

**1.2.** The land and buildings balance of Kshs.348,635,990 as at 30 June 2018, disclosed under Note 8 to the financial statements excludes an undetermined value of one parcel of land located in Elgeyo Marakwet County measuring 66 hectares. According to available evidence, the land which is fully developed and with tea bushes has been illegally excised by an individual. Although the management has explained that details concerning this parcel of land has been forwarded to the Ethics and Anti-Corruption Commission (EACC) for investigation, no evidence has been provided by the management showing action taken to recover the land.

Under the circumstances, it is not possible to ascertain whether property, plant and equipment balance of Kshs.1,606,249,281 as at 30 June 2018 is fairly stated.

## **2. Long Outstanding Imprests**

The trade and other receivables net balance of Kshs.910,659,353 as at 30 June 2018 like in the previous year, excludes outstanding imprests of Kshs.1,176,259 from former employees that have been outstanding since 1990's. Although management has made a full provision for these debts whose recovery remains doubtful, no evidence has been provided for audit verification showing action taken to recover the imprests.

## **3. Bearer Plants**

The statement of consolidated financial position as at 30 June 2018 and as disclosed under Note 7 to the financial statements reflects an amount of Kshs.1,633,221,779 relating to bearer plants. Examination of records however revealed that included in this figure is undetermined value of bearer plants on land measuring 17.34 hectares registered in the name of the Corporation as Grant No. L.R 82519 in Elgeyo Marakwet County. A third party, a Mr. Silvester Kaitany claims that the land was allocated to him by the Government in 1999.

Further, examination of records revealed that as a result of the dispute, the National Land Commission carried out a valuation of the piece of land and in their communication to the Corporation, Ref: NLC/V&T/MKKEMC/1 of 6 November 2017, the Commission assessed the value of the land including the tea bushes at Kshs.369,797,500 and advised the Corporation to pay the claimant should it wish to keep the land. It is not clear and the management has not explained, why the National Land Commission was involved in the dispute resulting in the valuation of the land and award of the amounts given that no supporting documentation had been provided showing how the land was allocated to the claimant from the Corporation in the first place.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Nyayo Tea Zones Development Corporation 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. 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. Except for the matters described in the Basis for Qualified Opinion section, I have determined that there are no other key audit matters to communicate in my report.

## **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 Qualified Opinion 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**

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, AND 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 Qualified Opinion 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 governance were not effective.

#### **Basis for Conclusion**

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. The standards require that I plan and perform the audit to obtain assurance about whether 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 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 Nyayo Tea Zones Development Corporation to sustain services, disclosing, as applicable, matters related to sustainability of services and using the going concern basis of accounting unless the management either intends to cease operations, or have no realistic alternative but to do so.

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 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 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 noncompliance. 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 ability Nyayo Tea Zones Development Corporation 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 Corporation to sustaining 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 ability Nyayo Tea Zones Development Corporation 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.

A handwritten signature in black ink, appearing to read 'E. O. Ouko'.

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

**Nairobi**

**22 May 2019**