

REPORT OF THE AUDITOR-GENERAL ON OCCUPATIONAL SAFETY AND HEALTH FUND (OSHF) FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of the Occupational Safety and Health Fund set out on pages 19 to 52, which comprise the statement of financial position as at 30 June 2018, the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison 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 the Occupational Safety and Health Fund as at 30 June 2018, 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 Occupational Safety and Health Act, 2007.

Basis for Qualified Opinion

1. Irregular Transfer of Appropriation in Aid (AIA)

The statement of financial performance for the year ended 30 June 2018 reflects a total of Kshs.50,433,876 in respect of general expenses. Included in this amount is Kshs.5,500,000 which was explained as transfer of AIA to the State Department of Labour. However, no satisfactory explanation was given as the basis for this transfer of funds to the parent Ministry since the Fund is a semi-autonomous entity and there is no provision for such remittances in Occupational Safety and Health Act, 2007.

In the circumstances, the legality and accountability of the transfer of appropriation in Aid amounting to Kshs.5,500,000 could not be ascertained.

2. Cash and Cash Equivalents

The statement of financial position as at 30 June 2018 reflects a cash and cash equivalents balance of Kshs.10,665,655. A review of the supporting bank reconciliations statement for June 2018 showed that there were debits in the bank statement totaling Kshs.7,495,020 which were not reflected as payments in the cashbook out of which only Kshs.2,799,520 was analysed leaving a balance of Kshs.4,695,500 unsupported. Further, it was not clear how these amounts were debited in the bank statement and not in the cashbook since payments should normally be initiated by the management before being cleared in by the bank. In addition, the bank reconciliation statement reflects receipts in bank statement not in cashbook totaling Kshs.13,859,300. Although the management has explained that these represents revenue banked at the regions but whose returns were not submitted to the Headquarters, it was not clear why the returns had not been obtained.

In the circumstances, the completeness and accuracy of the cash and cash equivalents balance of Kshs.10,665,655 as at 30 June 2018 could not be confirmed.

3. Registration of Work Places and Revenue Undisclosed

As previously reported, the Fund did not maintain an up to date data of all the registered work places which would form the basis of levies and permits revenue collection. The management has indicated that the number of registered work places in the year under review was 10,302. Based on this number of registered work places, the Fund was expected to collect Kshs.51,510,000 using a rate of Kshs.5,000 per registered work place. However, a review of the statement of financial performance shows that only Kshs.42,792,518 was realized resulting to an unexplained revenue shortfall of Kshs.8,717,482.

In consequence, the accuracy and completeness of Kshs.42,792,518 disclosed as income from licenses and permits could not be confirmed.

4. Unsupported Fees Charged for Registration of Workplaces

Section 3 of the Occupational Safety and Health Fund Regulations, 2011 requires that every workplace registered under the Occupational Safety and Health Act, of 2007 shall pay, into the Fund, an annual levy of Kshs.3,000. However, it was noted that the Fund charged registration fees at a rate of Kshs.5,000 resulting to an overcharge of Kshs.2,000 per work place. Although the management has indicated that the Kshs.3,000 registration fee shown in the 2011 regulations was in addition to the then existing fee of Kshs.2,000 no documentary evidence was made available to support this assertion.

In view of the foregoing, no satisfactory explanation has been given for the resultant overcharge of Kshs.20,604,000 in the year ended 30 June 2018.

5.0 Unresolved Prior Year Matter

5.1 Construction of Research Institute Office Complex

As previously reported, the construction of the Fund's Research Institute Office Complex project which was commissioned in February 2010 at an estimated cost of Kshs.480,000,000 was still incomplete as at 30 June 2018. During an audit inspection carried out in February 2019, it was observed that no activities were ongoing at the site and the project appeared to have stalled. Further, no plausible reasons have been given for the eight (8) years delay in completion of the project whose primary objective was to enable the Fund embrace changing dynamics in work environment relating to health and safety of workers.

In the circumstances, the Fund has not obtained the envisioned value for money from Kshs.343,458,956 or 71.55% of the contract price already paid to various contractors as at 30 June 2018.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Fund 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 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

6.0 Budget and Budgetary Performance

6.1 Failure to provide an Approved Budget

OSHF did not avail an approved budget for audit verification. It was therefore not possible to confirm the source and accuracy of the budget figures disclosed in the statement of budget and actual amounts on page 23 of the financial statements for the year ended 30 June 2018.

6.2 Revenue

The statement of comparison of budget and actual amounts reflect estimated budgeted receipts of Kshs.66,000,000 but actual receipts realized amounted to Kshs.48,792,518 resulting to a shortfall of Kshs.17,207,482 or 26 % as itemized below:

Revenue Head	Budget Estimates Kshs.	Actual Kshs.	Excess/(shortfall) Kshs.	Variance %
Licenses and permits	60,000,000	42,792,518	(17,207,482)	29%
Government grants	6,000,000	6,000,000	0	-
Total	66,000,000	48,792,518	(17,207,482)	26%

Consequently, the validity and accuracy of the budget figures could not be authenticated.

6.3 Expenditure

The statement of comparison of budget and actual amounts reflect estimated budgeted expenditure of Kshs.66,000,000 while actual expenditure amounted to Kshs.58,752,183 resulting to a shortfall of Kshs.7,247,817 or 12.3% as itemized below:

Expenditure	Budget Estimates Kshs.	Actual Kshs.	(Over)/Under Kshs.	Variance %
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Use of Goods and services	220,000	217,735	2, 265	1
Acquisition of Assets	11,650,000	5,143,500	6,506,500	56
Bank charges	60,000	54,421	5,579	9
Board and conferences	900,000	973,000	(73,000)	8
Repairs & Maintenance	670,000	662,500	7,500	1
General expenses	52,000,000	50,433,876	1,566,124	3
Provision for Depreciation	500,000	1,267,151	(767,151)	153
Total	66,000,000	58,752,183	7,247,817	10

In the absence of an approved budget, the validity and accuracy of the budget figures could not be authenticated.

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, I confirm that, nothing 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, GOVERNANCE AND RISK MANAGEMENT SYSTEMS

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the 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's 1315 and ISSAI 1330. 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 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.

In preparing the financial statements, management is responsible for assessing the Fund's ability to continue as a going concern/ sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intends to liquidate the Fund or 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 manner.

Those charged with governance are responsible for overseeing the Fund'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 review is planned and performed to express a conclusion with assurance 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review 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 Fund'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 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 Fund's ability to continue as a going concern or 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 Fund to cease to continue as a going concern or 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 Fund 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.



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

Nairobi

17 May 2019