

REPORT OF THE AUDITOR-GENERAL ON SPORTS KENYA FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Sports Kenya set out on pages 20 to 59, which comprise the statement of financial performance, the statement of financial position as at 30 June, 2019, the statement of changes in Net Assets, the statement of cash flows, the statement of comparison of budget and actual amounts and the notes to the financial statements, 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 Sports Kenya 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 Public Finance Management Act, 2012 and the Sports Act, 2013.

Basis for Qualified Opinion

1.0 Property, Plant and Equipment

The statement of financial position reflects property, plant and equipment balance of Kshs.132,431,455 which excludes undetermined values of land on which the International Sports Centre, Kasarani and the Nyayo National Stadium are built as Sports Kenya does not have ownership documents. Information available indicates that Sports Kenya wrote a letter Ref: SK/CON/LA/15 (217) dated 14 February, 2019 through the Cabinet Secretary Sports, Culture & Heritage to the Cabinet Secretary Ministry of Lands and Physical Planning requesting the office to issue title deeds for the Kasarani and the Nyayo National Stadiums in the name of Sports Kenya. However, as at the time of audit, no response had been received from the Ministry of Lands and Physical Planning.

In addition, the assets register provided for audit revealed that it was last posted in the year 2014.

In view of the foregoing, the ownership, completeness, security and carrying values of the property, plant and equipment balance of Kshs.132,431,455 reflected in the statement of financial position as at 30 June, 2019 could not be confirmed.

2.0 Accounts Receivables

2.1 Trade Debtors

The statement of financial position reflects accounts receivables from exchange transactions balance of Kshs.200,697,515 and as disclosed under Note 14 to the financial statements. Included in this balance is Kshs.159,090,220 in respect of trade debtors. A review of the schedule provided in support of trade debtors revealed long outstanding balances amounting to Kshs.72,767,466 relating to Kenya Football Federation - Kshs.42,338,852, Kenya Rugby Football - Kshs.12,637,616, National Olympic Committee - Kshs.5,136,700 and Kenya Volleyball Federation - Kshs.12,654,298.

Further, trade debtors balance of Kshs.159,090,220 also includes debts totaling Kshs.30,559,000 owed by two (2) media firms in respect of fees due from advertising contracts which have been outstanding since 2012.

In addition, no provision was made for doubtful debts as per IPSAS 15 which requires reasonable provision to be made for doubtful debts based on Management's assessment of their collectability so as to reflect debtors at their fair value.

Consequently, the accuracy and completeness of the trade debtors could not be confirmed.

2.2 Rent Receivable

The statement of financial position reflects accounts receivables from exchange transactions balance of Kshs.200,697,515 and as disclosed under Note 14 to the financial statements. Included in this balance is Kshs.41,607,295 in respect of rent receivables. This further includes Kshs.41,583,507 in respect of amounts due from tenants who vacated the rental houses between 1 July, 2006 and 30 June, 2019. However, no legal action had been made to recover these amounts.

Consequently, the accuracy and completeness of the rent receivables could not be confirmed and the recoverability is in doubt.

2.3 Outstanding Loan Advances

The statement of financial position as at 30 June, 2019 reflects accounts receivables from non-exchange transactions balance of Kshs.144,289,387 and as disclosed under Note 15 to the financial statements. Included in the account receivables from non-exchange transaction is Kshs.139,328,016 being loan advances made to the Deaf Olympics - Kshs.500,000, Ministry of Youth - Kshs.107,390,843, Kenya Academy of Sports - Kshs.1,364,288, National Youth Talent Academy - Kshs.15,590,653, FC Talanta - Kshs.4,482,232 and Kenya football Federation - Kshs.10,000,000. However, no documentary evidence was provided to confirm how the stated amounts were transferred to the bank accounts of the respective entities in order to qualify as debt. Further, the terms and purpose for the loan advances were not provided and no effort appears to have been made to pursue these debts.

In the circumstances, the validity of the stated debts totaling Kshs.139,328,016 as at 30 June, 2019 could not be confirmed.

3.0 Outstanding Trade and Other Payables

The statement of financial position as at 30 June, 2019 reflects trade and other payables from exchange transaction amounting to Kshs.208,017,719. A review of the aging analysis in support of trade and other payables balance revealed that creditors with a total amount of Kshs.178,880,552 or 86% of the total balance had been outstanding for periods between two (2) years and ten (10) years as at 30 June, 2019. Further it was noted that Sports Kenya did not accrue the outstanding certified Works despite having received certificates of part completion amounting to Kshs.2,392,909,269.

No satisfactory reason was given for the failure to settle the above stated long outstanding payables.

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

1.0 Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the report on financial statements, report on lawfulness and effectiveness in use of public resources, and report on effectiveness of internal controls, risk management and governance. However, the Management has not resolved the issues.

2.0 Budget and Budgetary control

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.1,191,519,978 and Kshs.798,293,924 respectively resulting to an under-funding of Kshs.393,226,054 or 33% of the budget. Similarly, the Board expended Kshs.795,432,384 against an approved budget of Kshs.1,191,519,978 resulting to an under-expenditure of Kshs.396,087,594 or 33% of the

budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Failure to generate revenue as projected implies that the goals and objectives of Sports Kenya may not have been achieved as planned. Further, the under expenditure of Kshs.396,087,594 implies that the goals and objectives of the Board were not achieved.

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 of Qualified Opinion section of my report, 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

1.0 Delayed Completion of Major Stadiums and Expiry of Performance Bonds

2.1 Construction Works - Nyayo National Stadium

Sports Kenya on 18 August, 2017 entered into two (2) contracts in respect of civil works and builder's works in preparation for the CHAN football tournament at a contract cost of Kshs.206,690,139 for civil works and Kshs.325,829,431 for builder's works. Further, the Board entered into nine (9) other minor tenders of Kshs.623,851,572 which were awarded through a competitive process for works expected to be completed within a period of 14 weeks.

The works were to commence on 24 August, 2017 with an expected completion date of 24 January, 2018. As at the time of audit in January, 2020 the Contractor's equipment was still on site despite the expiry of the project performance period by over 22 months. The Board had made payments of Kshs.276,455,214 or 24% of the total contract sum as at 30 June, 2019. Management did not provide explanations on the delay in completion of the works.

2.2 Moi Stadium – Kisumu County

Sports Kenya entered into partnership with the County Government of Kisumu for the installation of floodlights and connection to power of the Moi Stadium in Kisumu during the financial year 2015/2016. The Project Management had paid Kshs.15,000,000 for the works as at the time of the audit in September, 2019 by which time the project had stalled.

Consequently, value for money has not been realised on the works and the delays in completion of the contractual works within the stipulated period is likely to lead to escalation of the total cost of the project.

2.0 Lack of Tender Documents on Construction of Six (6) County Stadia

As previously reported, Sports Kenya awarded tenders for construction of eight County Stadia at a combined cost of Kshs.2,450,611,652 as follows:

Tender	Contract Sum (Kshs.)	Amount Paid as at 30 June, 2019 (Kshs.)
Kamariny Stadium - Elgeyo Marakwet County	287,837,775	160,729,949
Ruringu Stadium - Nyeri County	288,045,530	71,191,675
Kipchoge Keino - Uasin Gishu County	304,204,413	117,380,994
Karatu Ndarugu - Kiambu County	259,604,780	61,215,942
Wote Stadium - Makueni County	299,309,554	104,655,419
Marsabit Stadium - Marsabit County	295,263,215	132,341,445
Kirubia Stadium - Tharaka Nithi County	274,208,855	92,637,118
Kinoru Stadium - Meru County	442,137,530	90,617,704
Total	2,450,611,652	830,770,246

However, tender documents relating to the procurement of contractors for the six (6) County Stadia Projects which include original tender documents, tender opening minutes, evaluation committee reports and procurement professional opinions were not provided for audit verification. The documents were reported to have been taken by the Ethics and Anti-Corruption Commission (EACC) Officers to assist in investigations of alleged irregularities in the award of the tenders. A review of the matter during the 2017/2018 audit in April, 2019 revealed that the documents were still not available for audit review.

Under the circumstances, it has not been possible to confirm whether the tenders were awarded competitively, and whether the public will obtain value for money on the amount already paid totaling Kshs.830,770,246 as at 30 June, 2019.

3.0 Project Implementation Status

A Review of project implementation status during the 2018/2019 audit revealed that there was delay in completion of various stadia while some contractors had abandoned sites as follows:

3.1 Kamariny Stadium in Elgeyo Marakwet County

The Board awarded the contract at the cost of Kshs.287,837,775. The works commenced on 5 January, 2017 and were expected to have been completed by 31 May, 2018. The scope of works involved construction of Kerio Valley View Point, VIP Pavilion, changing rooms, reference rooms, medical rooms, anti-doping room, office for stadium management, pitch works, and track lanes.

Audit inspection of the project on 9 March, 2019 revealed that the pitch and track works had not been started, and the contractor had abandoned the site. Further, the Board had paid the Contractor a total of Kshs.160,729,949 or 56% of the total contract cost as at 30 June 2019. The contract performance period had expired and had not been renewed at the time of the audit. Management did not provide satisfactory explanation why the contractor had abandoned the site before completing the works or evidence of measures put in place to ensure the works are completed.

3.2 Ruringu Stadium- Nyeri County

The Board awarded the contract at the cost of Kshs.288,045,530. Audit inspection of the project on 14 March, 2019 revealed that the Contractor had abandoned the site and no works seemed to have been undertaken despite payments of Kshs.71,191,675. The initial contract period expired on 5 September, 2017 and had not been renewed at the time of audit verification.

3.3 Kinoru Stadium- Meru County

The Board awarded the contract at the cost of Kshs.442,137,530. The works commenced on 5 January, 2017 and were expected to be completed on 24 August, 2017. The scope involved pitch works, sub base for tartan track, VIP pavilion, water system, ablution blocks, terraces, parking and perimeter wall.

An audit inspection of the Stadium in September, 2019 revealed that substantial work had been done with an overall progress of 90% realized. However, the contractor had issued a notice to stop works due to non-payments of certified works totaling Kshs.244,842,180 for certificate No.3 and 4 of Kshs.139,590,571.60 and Kshs.105,251,608.80 respectively.

3.4 Kirubia Stadium - Tharaka Nithi County

The Board awarded the contract at the cost of Kshs.274,300,000. The works commenced on 5 January, 2017 and were expected to be completed on 5 September, 2017(31 May 2018 rev.). The scope involved pitch works, 6 lack track, VIP pavilion, water system and ablution blocks. An audit inspection of the Stadium in September, 2019 revealed that substantial progress had been made with an overall progress of 85% realized. It is not clear why the remaining works had not been completed by the end of contract extension period in May, 2018.

3.5 Wote Stadium - Makueni County

The Board awarded the contract at the cost of Kshs.299,309,554. The works commenced on 5 January, 2017 and were expected to have been completed on 31 May, 2018. The scope of works involved pitch works, 8 lane track, VIP Pavilion, Water System which included borehole drilling, 2 tank installation and electrical installation and construction of ablution blocks and perimeter wall.

An audit inspection in September, 2019 revealed that there was no noticeable pitch and track works, the underground excavation was partially done and the perimeter wall had not been constructed. The construction site was looking disorganized with building materials including sand, ballast and stones scattered all over and the contractor had abandoned the site. It was noted that as at 30 June, 2019 the contractor had been paid a total of Kshs.104,655,419 or 35% of the total contract cost and while the contract performance period had expired. No explanation was given why the contractor had abandoned the site before completing the works, casting doubt on the value for money of the already incurred expenditure.

3.6 Karatu Ndarugu Stadium – Gatundu

The Board awarded the contract at the cost of Kshs.259,604,780. The works commenced on 3 February, 2017 and were expected to have been completed on 31 May, 2018. The scope of works involved pitch works, 6 lane track, VIP pavilion, parking, construction of ablution blocks and a perimeter wall.

An audit inspection of the Stadium on 9 May, 2019 revealed that the contractor had abandoned the site due to failure by the Board to pay for certificates of completed works. The works already done included excavation of the pitch, the installation of drainage pipes and backfilling of the main football pitch. The VIP pavilion was still at foundation level and works on the six-lane athletic track, ablution blocks and parking were yet to start. The perimeter wall had been constructed even though the gate had not been done. As at 30 June, 2018 the contractor had been paid a total of Kshs.69,580,372 or 27% of the total contract sum while the contract performance period had expired. No progress was reported in the 2018/2019 audit.

Consequently, the delays in completion of the contractual works within the stipulated period was likely to lead to escalation of the total cost of the project. Also, value for money has not been realised on the projects.

4.0 Consultancy Services for Construction of Three Stadiums

4.1 Legal Consultancy for Public Private Partnership (PPP)

The Board entered into a contract under Request for Proposals for Public Private Partnership legal advisory services for construction of three (3) stadiums at a contract sum of Kshs.47 million to be undertaken on the basis of Public Private Partnership (PPP). According to the contract document, the consultant was to perform the services commencing on 9 September, 2015 and through to 30 June, 2016.

During the year under review, the consultant had been paid Kshs.54,520,000 an amount above the initial contract sum but no public - private partnership had so far been entered into and no stadium has been developed or initiated using Public Private Partnership. Approval of the excess contract sum of Kshs.7.5 Million was not availed for audit verification.

In the circumstances, Sports Kenya and the Kenyan Public have so far not obtained value for money from the legal consultancy payments made so far totalling to Kshs.54,520,000 as at 30 June, 2019.

4.2 Consultancy Services for Feasibility Study and Development of Detailed Designs for Three (3) International Stadia

The Board entered into a contract with a consortium of local and international firms to offer consultancy services for feasibility study and development of detailed designs for three (3) international stadiums in Nairobi, Mombasa and Eldoret Counties at a total contract price of US\$1,071,105.43 or Kshs.110,323,860. Further, the entire project including feasibility study was estimated at a cost of US\$320,000,000 which was used as a basis for payment to the other consultants in the consortium.

A review of the position in the year under review, indicates that the feasibility studies were completed in 2016 while the project was stated to be at the detailed design stage. As at 30 June, 2019, the consortium had received payments totalling to Kshs.537,297,227. However, there was no evidence of the feasibility study and designs being put into use four and a half (4½) years later.

In addition, although the sites for the construction of three (3) stadiums had been identified in Nairobi, Mombasa and Eldoret Counties, according to the management, only one formal agreement in form of Memorandum Of Understanding (MOU) had been signed to initiate the process of acquiring the land.

It is therefore not clear if and when the construction of the stadiums would be started and the feasibility study put into use.

In view of the foregoing, Sports Kenya and the Kenyan public have not received value for money from the Kshs.537,297,227 expenditure on feasibility study as at 30 June, 2019.

5.0 Supply and Installation of Three Tracks at Kasarani Stadium and Kenyatta University Sports Field

As previously reported the Local Organizing Committee (LOC) for the IAAF World Under 18 Championships on 1 March, 2017 entered into a contract through direct procurement for the supply and installation of three running tracks at Kasarani stadium and Kenyatta University sports field at a contract sum of Euro 3,018,739.89 (Kshs.344,037,488.76). The works were to commence on 1 March, 2017 with a completion period of 18 weeks.

The contractor was paid an advance payment of Euro 1,509,369.94 (Kshs.169,200,370) being 50% of the contract sum. The advance payment was not secured with a bank guarantee. The advance payment exceeded the 20% allowable limit. This was contrary to Section 147(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that under exceptional circumstances, advance payment may be granted and shall not exceed twenty per cent (20 %) of the price of the tender. The Act also provides that the

advance payment shall be paid upon submission by the successful tenderer, an advance payment security equivalent to the advance itself and that security shall be given by a reputable bank or any authorized financial institution issued by a corresponding bank in Kenya recognized by the Central Bank of Kenya, in case the successful tenderer is a foreigner.

Available records indicated that the contractor had so far been paid a total amount of Euro 3,117,344.13 (approximately Kshs.355,275,143). This was Euro 98,604.24 (Kshs.11,237,654.24) in excess of the contract sum. In addition, an audit inspection of the installation of the tartan track at Kenyatta University revealed that the works had not been completed by 10 July, 2017 or by 54 weeks after signing the contract.

The Bills of Quantities (BQs) and completion certificates were not provided for audit verification. Further, the retention fee of 5% was not deducted from the contractor's payments in accordance with Clause 26 of the contract to cover for defects liability period. In addition, Clause 27.1 of the contract requires the contractor to pay the Local Organizing Committee liquidated damages of Euro 136 (approximately Kshs.15,499.50) per week for delays in completing of the works. Management did not provide evidence that the board lodged a claim against the contractor in accordance with the contract agreement.

A review of the matter in the year ending 30 June, 2019 revealed that the works were still incomplete while the contractor had abandoned the site.

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 governance were not effective.

Basis for conclusion

The audit was conducted in accordance with ISSAI's 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 controls, 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 Management'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 liquidate the Board 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 manner.

Those charged with governance are responsible for overseeing the Board's financial reporting process, reviewing the effectiveness of how Management 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 overall 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 Board'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 Board's use of the applicable 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 Board'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 Board 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 Board to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicated 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.

13 August, 2021